

Chapter 1
GENERAL PROVISIONS

ARTICLE I

General Penalty

[Adopted as Art. XIII of the 1983 Code]

§ 1-1. Penalty enumerated.

Whoever violates any of the provisions of this Code, unless otherwise herein specifically provided, shall be punished with a fine of not more than \$20.

Chapter 3

ADMINISTRATION

GENERAL REFERENCES

Boards, commissions and authorities — See Ch. 6. Committees — See Ch. 9.

Officers and employees — See Ch. 27.

§ 3-1. Information to be given Town Clerk.

All officers, boards and committees shall notify the Town Clerk of their organizations, of their office hours and of the time and place of their meetings.

§ 3-2. Town contracts over certain amounts.

No contract, involving an obligation of the Town, exceeding the sum of \$300 shall be binding upon the Town unless it is in writing and is signed by at least a majority of the board or committee duly authorized or having control of the appropriation against which such obligation is incurred; and such board or committee shall make a record of every such contract in a book which shall be the property of the Town.

§ 3-3. Contract signing time limits.

No board or officer shall make any contract on behalf of the Town, the execution of which shall necessarily extend beyond one-year from the date thereof, unless specific authority so to do has been given by vote of the Town.

§ 3-4. Orders, contracts and votes to be kept on file.

- A. Every officer, board or committee of the Town charged with the expenditure of money shall furnish the Town Accountant with a copy of all orders for the purchase of equipment, supplies or materials and all requisitions for personal services, except for services, payment for which is to be made on the regular payroll of the department, board or committee contracting for the same at the time such purchases or requisitions are made.
- B. Every officer, board or committee making or entering into any written contract shall file such contract with the Town Accountant before any payment is made thereon.
- C. Every board or committee shall at once furnish the Town Accountant with a copy of any vote adopted by it which involves the expenditure of money.

§ 3-5. Statements to be kept on file.

Every officer or board of the Town, at the time of rendering or transmitting any bill or demand for any money due or payable to the Town, shall, at the same time, file a statement thereof with the Town Accountant; provided, however, that the provisions of this section shall not apply to bills or demands for taxes or other municipal assessments.

§ 3-6. Sale of property. [Amended 4-13-2010 ATM by Art. 19]

Any officer or board in charge of a department may, with the approval of the Board of Selectmen, sell any personal property or material lawfully in custody of and belonging to such department and no longer needed and which does not exceed \$2,000 in value. No property of the Town of value in excess of \$1,000 shall be sold except at public auction, after not less than seven days' notice in one or more newspapers published in the Counties of Worcester and Middlesex.

§ 3-7. Submittal of financial reports.

Every officer in charge of a department shall annually, on or before the 15th day of January, transmit to the Selectmen, in writing, a report, containing a statement of the acts and doings of his department for the past financial year, to be printed in the Annual Report as the Selectmen may deem expedient.

§ 3-8. Compensation and outside contracts.

No Town, officer, department or committee member shall receive any compensation or commission for work done by him in his official capacity for the Town, except his official salary and fees allowed by law, or enter into any contract with any department of the Town without the permission of the Selectmen, expressed by a vote which shall appear on their records, together with the reason therefor.

§ 3-9. Donations and acquisitions. [Amended 4-12-2004 ATM by Art. 3]

All Town departments, except those under the supervision of the various elected school committees, prior to the acquisition by grant, gift, lease or other means of capital equipment, real property or capital assets by any Town department, employee, board or official except as specifically budgeted and approved by Town Meeting, the parties making such acquisition shall:

- A. Provide the Board of Selectmen with a written description of the equipment, real property or capital asset to be acquired. The Board of Selectmen shall approve the acquisition by majority vote; and
- B. Also provide the Board of Selectmen with a written estimate of annual maintenance costs; annual operating costs, and a description and cost

of ancillary support systems and equipment that are required for the effective utilization of the equipment, real property or asset. These estimates shall be for a period equal to the life of the equipment, real property or capital asset or five years, whichever is less. The Board of Selectmen shall approve these estimates by majority vote.

- C. Shall the Board of Selectmen fail to approve either option as noted above, the equipment, capital asset or real property shall not be acquired.

§ 3-10. (Reserved)

**§ 3-11. Superintendent of Public Works employment contract.
[Added 4-15-2004 ATM by Art. 55]**

- A. The Town, acting by and through its Selectmen, may provide an employment contract, for a period of up to three years, to provide for the salary, fringe benefits and other conditions of employment, including, but not limited to, severance pay, relocation expenses, reimbursement of expenses incurred in the performance of duties or office, liability and disability insurance, and leave, for the Superintendent of Public Works.
- B. Such an employment contract shall prevail over and preempt any provision of any local personnel bylaw, Code section, rule or regulation covering the subject matter of the employment contract.
- C. If the Town Meeting votes to appropriate the funds necessary for the first year of any contract described herein, the Town shall be bound to fund the remaining term of the contract.
- D. Nothing contained in this section shall affect the appointment or removal powers of the Board of Selectmen over the above-referenced department head, nor shall it grant tenure to such department head.
- E. The Board of Selectmen may promulgate rules and regulations to carry out this bylaw.

Chapter 6

BOARDS, COMMISSIONS AND AUTHORITIES

GENERAL REFERENCES

Administration — See Ch. 3.

Committees — See Ch. 9.

ARTICLE I

Recreation Commission

**[Adopted 6-11-1951 STM by Art. 3; amended in its entirety
4-14-1981 ATM by Art. 31]**

§ 6-1. Membership; appointment.

A Recreation Commission composed of five members shall be appointed by the Board of Selectmen, under the provisions of MGL c. 45, § 14.

§ 6-2. Powers and duties.

Said Commission shall have and exercise the powers and duties conferred by Chapter 45 of the General Laws of Massachusetts.

ARTICLE II
Consumer Advisory Commission
[Adopted as Art. XV of the 1983 Code]

§ 6-3. Establishment; membership; purpose.

There is hereby established a Consumer Advisory Commission consisting of five members to be appointed by the Selectmen for the purpose of conducting investigations and research into matters affecting consumer interests and education.

§ 6-4. Periodic reports to be made.

The Commission shall make periodic (at least quarterly) reports of the results of all investigations and research to the Board of Selectmen, who shall see that said reports are circulated for information to the general public.

§ 6-5. Annual report.

An annual report of its activities shall be made to the Town of Southborough in the Annual Report thereof. A copy of said report shall be sent to the Consumers Council of the commonwealth.

§ 6-6. Correlation with other programs.

The Commission shall correlate its activities with these opinions, matters and programs which are being undertaken by state and federal consumer agencies.

§ 6-7. Appointments; terms.

The appointments to this Commission shall be for three years, and the initial appointments shall be one member for one-year, two members for two years and two members for three years.

ARTICLE III

Open Space Preservation Commission
[Adopted 4-14-1986 ATM by Art. 44]**§ 6-8. Appointment; membership; terms.**

The Selectmen shall appoint a citizen's committee to be called the "Open Space Preservation Commission," to be comprised of five members, serving staggered terms of five years each.

§ 6-9. Conflict of interest.

Said members shall not concurrently serve as members of the Board of Selectmen, Advisory Committee, Recreation Commission, Conservation Commission, Planning Board or Board of Appeals.

§ 6-10. Purpose.

Said Commission shall serve as facilitators for protecting and preserving open space in the Town.

ARTICLE IV

Southborough Housing Opportunity Partnership Committee
[Adopted 4-15-2004 ATM by Art. 44; amended in its entirety
4-14-2009 ATM by Art. 26]

§ 6-11. Establishment.

The Selectmen shall appoint a committee to be called the "Southborough Housing Opportunity Partnership Committee," to be comprised of four members, serving staggered terms of three years each. Said Committee shall also include one member each from the following: Planning Board, Board of Selectmen, and Southborough Housing Authority for a total committee membership of seven.

§ 6-12. Purpose.

Said Committee's purpose shall be to study, promote, and act as facilitators to create affordable housing in the Town of Southborough, and any other action related thereto.

Chapter 9
COMMITTEES

GENERAL REFERENCES

Administration — See Ch. 3.

**Boards, commissions and authorities — See
Ch. 6.**

ARTICLE I

Solid Waste Disposal Committee

[Adopted 3-11-1968 ATM by Art. 29; amended 3-10-1971 ATM by Art. 45]

§ 9-1. Committee created; membership; purpose.

A Solid Waste Disposal Committee is hereby created, which Committee shall consist of three members appointed by the Moderator, to make a continuing study of the refuse problems in and for the Town of Southborough.

ARTICLE II
(Reserved)¹

§ 9-2. through § 9-7. (Reserved)

1. Editor's Note: Former Art. II, Capital Budget Planning Committee, adopted as Art. VIIIB of the 1983 Code, as amended, was repealed 4-8-2013 ATM by Art. 21.

ARTICLE III
Advisory Committee
[Adopted as Art. VIII of the 1983 Code]

§ 9-8. Establishment; membership; residence requirements.
[Amended 4-12-1999 STM by Art. 1; 10-21-2002 STM by Art. 7;
4-15-2008 ATM by Art. 34]

There shall be an Advisory Committee, which shall consist of nine voters of the Town. No member shall be appointed who is a Town officer, employee or member of another Town committee, appointed or elected; provided, however, that an Advisory Committee member may belong to one ad hoc committee that is appointed by an elected board or official or one other committee appointed by the Moderator under the following restrictions:

- A. The Advisory member's participation is approved by majority vote of the Advisory Committee excluding the member desiring to participate in the above committees.
- B. The Advisory member may not vote or be counted for purposes of a quorum during Advisory meetings when matters subject to the jurisdiction of the above other committees are presented to the Advisory Committee.

§ 9-9. Filling of vacancies.

After March 1948, the Moderator shall, within 60 days after the date of his election or within 60 days after any vacancy occurs in the Advisory Committee, fill, for the unexpired balance of the term of any member of said Committee, any vacancy which may occur in the membership of said Committee and shall annually thereafter, as the terms of members of the present Advisory Committee expire, appoint three members for terms of three years each.

§ 9-10. Initial appointments.

Initial appointments shall be one member for one-year, one member for two years and one member for three years.

§ 9-11. Removal from office. [Amended 4-8-1985 ATM by Art. 47;
10-21-2002 STM by Art. 7]

Any member of said Committee who shall be absent from the Town for four consecutive months or who shall remove from the Town shall, upon his/her qualifying for the office to which he was elected or upon absence or removal, cease to be a member of said Committee. The Moderator may rescind an appointment to the Committee if notified by the Chair of the Advisory Committee that the appointee has failed to attend four consecutive meetings and may fill any vacancy for the unexpired term.

§ 9-12. Appointment of Chairman and Secretary.

Said Committee shall choose from its membership a Chairman and a Secretary.

§ 9-13. Duties and authority of Committee.

- A. It shall be the duty of the Committee to consider all matters included within the articles of any warrant for a Town Meeting hereafter issued, and the Committee shall, after due consideration of the subject matter in said articles, report thereon, in print or otherwise, such information and recommendations as it shall deem best.
- B. The Committee shall insert in the Annual Town Report a description of all transfers made from the reserve fund during the preceding year. Such report shall contain the names of all Town officers, boards, departments and committees requesting such transfer, the original amount appropriated to the account, article or budget to which such transfer was made, the amount of each such transfer and the reason such transfer was requested.
- C. All recommendations of the Committee made to the Town shall be recommendations of a majority of the entire Committee, but this shall not be construed to prevent recommendations by a minority.
- D. The Advisory Committee shall have authority at any time to investigate the books, accounts and management of any department of the Town, and the books and accounts of all departments and officers of the Town shall be open to inspection of the Committee and of any person employed by it.
- E. It may appoint from its own membership subcommittees and delegate to them such of its powers as it deems expedient.

§ 9-14. Annual estimates to be submitted to Committee.

The various Town officers, boards and committees charged with the expenditure of the Town's money shall annually prepare detailed estimates of the amounts necessary to carry on the Town's business entrusted to them for the ensuing year, with explanatory statements as to any changes from the amount appropriated for the same purpose in the preceding year. They shall also prepare estimates of any income which may be received by the Town during the ensuing year in connection with the Town's business or property in their care. The Selectmen shall include in their estimates the salaries of all elected Town officers and all other items not otherwise provided for, and the salaries of all other persons shall be included in the estimates of the officers, boards or committees appointing them. The Treasurer shall include in his estimates the amounts required for the payment of interest on the obligations of the Town and the amount of maturing indebtedness during the succeeding year. Said estimates and explanations shall be filed with the Secretary of the Advisory Committee on

or before the 30th day of January, and said Secretary shall forthwith compile said estimates in tabulated form and add thereto two columns, one giving the amounts appropriated and the other giving the amounts expended in the current year, and shall furnish a copy to each member of the Advisory Committee.

§ 9-15. Committee action on estimates.

Said Committee shall at once consider the estimates and add another column to said compilation showing the amounts which, in its opinion, should be appropriated for the ensuing year and may add thereto such explanations, suggestions and recommendations in relation to the proposed appropriations as they deem expedient and report the same to the Selectmen. Said compilation shall be printed and distributed with the Town Report prior to the Annual Town Meeting.²

2. Editor's Note: Former Sec. 4 of Art. VIII of the 1983 Code, which originally followed this section, was repealed 4-9-1984 ATM by Art. 19.

ARTICLE IV
Community Preservation Committee
[Adopted 4-15-2004 ATM by Art. 56]

§ 9-16. Establishment; terms.

- A. There is hereby established a Community Preservation Committee consisting of nine voting members pursuant to Massachusetts General Laws, Chapter 44B. The Committee shall be appointed by the Board of Selectmen and shall consist of the following members:
- (1) One member of the Historical Commission as designated by the Commission for an initial term of three years and thereafter for a term of three years.
 - (2) One member of the Housing Authority as designated by the Authority for an initial term of one-year and thereafter for a term of three years.
 - (3) One member of the Conservation Commission as designated by the Commission for an initial term of two years and thereafter for a term of three years.
 - (4) One member of the Planning Board as designated by the Board for an initial term of two years and thereafter for a term of three years.
 - (5) One member of the Recreation Commission as designated by the Commission for an initial term of one-year and thereafter for a term of three years.
 - (6) One member of the Open Space Preservation Commission as designated by the Commission for an initial term of three years and thereafter for a term of three years.
 - (7) One member of the Southborough Housing Opportunity Partnership Committee (SHOPC) as designated by the Commission for a term of three years.
 - (8) Two members at large to be appointed by the Board of Selectmen, for an initial term of one-year and thereafter for a term of three years.
- B. After the initial appointments, terms will begin on July 1 of each year.
- C. Members at large may not also be members of the Historical Commission, Housing Authority, Conservation Commission, Planning Board, Open Space Preservation Commission, Southborough Housing Opportunity Partnership Committee, Recreation Commission or the Board of Selectmen.
- D. Should any commission, authority or board designating a member for the Community Preservation Committee cease to exist for whatever reason, the Board of Selectmen will determine the appropriate

alternative designating commission, authority or board, subject to any applicable state statute.

§ 9-17. Duties.

- A. The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The committee shall consult with existing Town boards, including the Historical Commission, Housing Authority, Conservation Commission, Planning Board, Recreation Commission, Open Space Preservation Commission and the Board of Selectmen, in conducting such studies. As part of its study the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.
- B. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, rehabilitation, restoration and preservations of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation support of community housing; and for the rehabilitation or restoration of such open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings, or construction of new buildings on previously developed sites.
- C. The Community Preservation Committee may include in its recommendations to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation, but for which sufficient funds are not then available in the Community Preservation Fund to accomplish that specific purpose, or to set aside for later spending funds for general purposes that are consistent with community preservation.

§ 9-18. Requirements for quorum and cost estimates.

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

§ 9-19. Amendments.

This Bylaw may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not be in conflict with Chapter 44B of the Massachusetts General Laws.

§ 9-20. Severability.

In case any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court of competent jurisdiction, it is intended that every other section, paragraph or part shall continue in full force and effect.

ARTICLE V

Commissioners of Trust Funds³
[Adopted 4-10-2006 ATM by Art. 53]**§ 9-21. Appointment; membership; terms.**

At the time of creating said Board there shall be elected one member for one year, one member for two years, and one member for three years; and there shall be elected annually thereafter one member for three years. Vacancies shall be filled by the Board of Selectmen.

§ 9-22. Powers and duties.

Said Commissioners shall have and exercise the powers and duties conferred by Chapter 41, Section 45, of the General Laws of Massachusetts.

3. Editor's Note: This article was adopted as Art. IV, but was redesignated as Art. V 4-10-2007 ATM by Art. 35.

ARTICLE VI

**Boards, Committees and Commissions: Residency Requirement;
Qualification; Meeting Minutes; Social Media
[Adopted 4-14-2015 ATM by Art. 23]**

§ 9-23. Residency requirement for voting members of appointed governmental bodies.

No person shall serve as a voting member of any appointed board, committee, or commission or other appointed governmental body of the Town of Southborough who is not a resident thereof. Nonvoting members, if any, shall not be considered in determining the presence of a quorum.

§ 9-24. Qualification of elected and appointed officials.

All elected and appointed officials shall be qualified by the Town Clerk within 15 days of their election except where a different period is specified in the General Laws. If an appointed official is not qualified in this period, his/her appointment shall terminate, and the appointing authority shall be so notified by the Town Clerk.

§ 9-25. Meeting minutes. [Added 4-12-2016 ATM by Art. 35]

- A. Each board, committee, or commission shall provide minutes for each of its meetings to the Town Clerk within 45 days of the meeting.
- (1) The minutes shall indicate whether they have or have not been approved by the board, committee or commission when submitted to the Town Clerk.
 - (2) Minutes shall be submitted in a manner consistent with the Open Meeting Law (MGL c. 30A, § 22), including a record of the date, time and place of the meeting, the members present or absent, a summary of the discussions on each subject. Minutes should also include copies of all documents and other exhibits used at the meeting, as reasonably possible. If copies of documents or other exhibits used at the meeting cannot be provided, the specific filing location of the documents or exhibit should be identified, and the decisions made and the actions taken at the meeting, including the record of all votes.
 - (3) If after 45 days from the date of a posted public meeting of a board, committee, or commission, the Town Clerk has not received a copy of the minutes, then the Town Clerk shall notify the chairperson of the board, committee, or commission that the minutes have not been received and that the board, committee or commission is not in compliance with the provisions of this bylaw.
- B. The Town Clerk shall log the receipt of all minutes and the Town Clerk will post minutes on the Town website. Minutes shall be kept by the Town Clerk for a period as required by applicable state law.

Any minutes received that have not been approved at the time of their receipt shall be labeled "Draft."

§ 9-26. Social media retention policy. [Added 4-12-2016 ATM by Art. 35]

- A. The Town Clerk will maintain archive copies of each website and social media site that is maintained by or on behalf of any Town department, board, committee, or elected or appointed official. These archives will be maintained and be made available to the public to comply with the Massachusetts Public Records Law.⁴
- B. The committee chairperson or department head who controls or maintains any website or social media site that is maintained by or on behalf of any Town department, board, committee, or elected or appointed official must notify the Town Clerk of the creation of the website or social media site before that site is made available to the public.

4. Editor's Note: See MGL c. 66, Public Records.

Chapter 16

FINANCE

ARTICLE I

Road Machinery Account
[Adopted 10-6-1931 STM by Art. 2]**§ 16-1. Account established; purpose.**

The Town shall set up a Road Machinery Account, to which shall be credited all receipts for rentals and use of such machinery or equipment, to be expended for the maintenance of present equipment and the purchase of new equipment when so voted by the Town at any Annual or Special Town Meeting.

ARTICLE II

Community Development Funds
[Adopted 5-15-1975 ATM by Art. 25]**§ 16-2. Authorization to file applications.**

Town departments acting through duly elected chief executive officers are hereby authorized to file applications for Community Development Act funds to be used for certain Town projects and further to authorize that said funds be appropriated and expended for said projects as are hereby authorized when said money is received by the Town.

ARTICLE III
Miscellaneous Provisions
[Adopted as Art. III of the 1983 Code]

§ 16-3. Disposition of unexpended appropriations.

At the end of each fiscal year, all unexpired appropriations or unexpended balances of appropriations shall be transferred to the account of excess and deficiency.

§ 16-4. Annual debtors list.

On January 15 of each year, every Town officer or board shall furnish the Board of Selectmen with the names of all persons, firms or corporations indebted to the Town and the amounts owed by them, and said Board of Selectmen shall cause such lists to be published in the Annual Town Report. The Board of Selectmen may institute appropriate proceedings to collect the same.

Chapter 19

FLOOD INSURANCE

§ 19-1. Compliance with National Flood Insurance Program.

The Town assures the Federal Emergency Management Agency that it will enact as necessary, and maintain in force for those areas having flood hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 60 of the National Flood Insurance Program Regulations found in 44 CFR.

§ 19-2. Responsibility and authority of Selectmen.

The Town vests the Board of Selectmen with the responsibility, authority and means to:

- A. Delineate or assist the Administrator, at his request, in delineating the limits of the areas having special flood hazards on available local maps of sufficient scale to identify the location of building sites.
- B. Provide such information as the Administrator may request concerning present uses and occupancy of the floodplain.
- C. Cooperate with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplain areas and cooperate with neighboring communities with respect to management of adjoining floodplain areas in order to prevent aggravation of existing hazards.
- D. Submit on the anniversary date of the community's initial eligibility an annual report to the Administrator on the progress made during the past year within the community in the development and implementation of floodplain management measures.

§ 19-3. Record of elevations to be kept.

The Town appoints the Board of Selectmen to maintain for public inspection and to furnish upon request a record of elevations, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures located in the special flood hazard areas. If the lowest floor is below grade on one or more sides, the elevation of the floor immediately above must also be recorded.

§ 19-4. Other action to be taken.

The Town agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program.

Chapter 27

OFFICERS AND EMPLOYEES

ARTICLE I
Tree Warden
[Adopted 10-23-1950 STM by Art. 9]

§ 27-1. Change of term.

The term of office of the Tree Warden is changed from one to three years, to become effective at the Annual Town Meeting in March 1951.

ARTICLE II

Miscellaneous Positions**[Adopted as Art. IV, Sec. 10, of the 1983 Code]****§ 27-2. Appointment of Fire Chief, Police Chief, Superintendent of Streets and Town Administrator. [Amended 4-10-1995 ATM by Art. 7]**

The Selectmen shall appoint a Fire Chief, a Police Chief, a Superintendent of Streets and a Town Administrator to the Board of Selectmen, each of whom shall serve in his office for a term of three years, unless removed from office by the Selectmen for cause.

§ 27-3. When effective.

This provision shall be effective for the appointment to any of said offices on April 1 of the year following final approval of this article.⁵

5. Editor's Note: This provision was finally approved in 1975.

ARTICLE III

Town Counsel**[Adopted as Art. IV, Secs. 4 through 7, of the 1983 Code]****§ 27-4. Appointment; compensation; additional counsel.**

The Board of Selectmen may, annually, upon its organization, appoint an attorney at law as Town Counsel for the term of one-year. He shall receive, as his salary, such compensation as is provided in Article VIIIA hereof,⁶ together with such additional sums as may be appropriated for such services as may be performed in addition to those rendered as legal adviser to the Town. It may, in any case, employ additional or special counsel.

§ 27-5. Duties and responsibilities.

Such Town Counsel shall act as the legal adviser of the Town. It shall be his duty to examine or cause to be examined all titles to property in which the Town may acquire an interest, to draft all deeds, obligations, contracts, bonds, leases, conveyances, agreements and other legal instruments, of whatever nature, which may be required by any bylaw, vote or action of the Town or any board of officers to which the Town or its agents may be a party, and which, by law, usage or agreement, the Town is to be at the expense of drawing.

§ 27-6. Appropriations in warrants to be submitted for review.

All Articles in warrants for Town Meeting which contemplate the appropriation of money or the negotiation of Town bonds or notes shall be submitted to the Town Counsel for his examination and approval.

§ 27-7. Consent for opinions required.

No Town officer, board or committee shall request an opinion of the Town Counsel, except in cases not admitting of delay, without first obtaining the consent of the Board of Selectmen: nor shall any such officer, board or commission employ any other counsel without like consent.

6. Editor's Note: "Article VIIIA" refers to the Salary Administration Plan, on file in the office of the Town Clerk.

ARTICLE IV

Treasurer and Collector of Taxes**[Adopted as Art. IV, Sec. 11, and Art. VIA of the 1983 Code]****§ 27-8. Appointment.**

The Selectmen shall appoint a Town Treasurer and Collector of Taxes, who shall serve in office for a term of three years, unless removed from office by the Selectmen for cause.

§ 27-9. Advertising for applicants.

The Board of Selectmen shall appoint the Town Treasurer and Collector after publicly advertising for applicants and after complying with all the requirements of state and federal statutes.

§ 27-10. Powers and duties of Collector.

The Town Collector, in addition to the powers granted and the duties imposed by the provisions of MGL c. 41, § 38A, shall have the following additional powers and duties:

- A. All accounts due the Town on the effective date hereof and all accounts coming due thereafter shall be committed forthwith to the Town Collector by the several boards, officers, committees and employees of the Town in whose department or under whose jurisdiction such account arose. Said commitments shall be made on forms to be furnished by the Town Accountant to all such boards, officers, committees and employees and shall contain all information in relation to each such account due.
- B. Upon receipt of any such due account, the Town Collector shall collect the same by any means authorized by the provisions of the General Laws.
- C. If, in the opinion of the Town Collector, suit should be brought to establish or collect any such account, the collection of which by him is not specifically authorized by the provisions of the General Laws, he shall notify the Selectmen in writing.
- D. The Town Collector shall semiannually, on the 15th days of January and June, and at such other times as the Selectmen require or direct, report to the Selectmen upon all uncollected accounts in his hands. In addition, his January report shall contain a description of the action taken on all such accounts during the preceding year and shall be entered in the Annual Town Report as a part of the report of the Town Collector.
- E. The Town Collector shall be required to pay over to the Town Treasurer at the end of each week all fees and charges collected during the week, the same to then become Town funds.

ARTICLE V
Town Clerk
[Adopted as Art. V of the 1983 Code]

§ 27-11. Recording of deeds and land conveyance.

The Town Clerk shall cause all deeds or other instruments conveying land or any interest in land to the Town to be immediately recorded in the Registry of Deeds, and he shall have custody of all recorded instruments after the same have been returned by said Registry.

§ 27-12. Notice of elected officials.

The Town Clerk shall, as soon as may be after every election, give written notice to every person elected to a Town office or board of his election; he shall also notify all appointive officers and members of committees of their appointment by the Selectmen or the Moderator, as the case may be. In giving notice to members of committees, he shall furnish each member thereof with a copy of the vote prescribing the duties to be performed. He shall furnish all officers and boards with copies of all votes of Town Meetings affecting them or their duties.

§ 27-13. Book of reports to be kept.

Whenever any report of any officer, board or committee is made to the Town Meeting and the recommendations therein are adopted, the Town Clerk shall enter in the records of the Town Meeting only such portions of the report as may be necessary for a full understanding of the action taken by the Town thereon, and he shall make a marginal or other reference of the number of such report as herein provided. He shall cause such report to be entered in full in a book provided for that purpose, which shall be known as the "book of reports," but if the report is printed, it need not be entered in the book of reports, and it shall be filed in his office. The book of reports and all printed reports shall be duly indexed by the Town Clerk, and such reports shall be numbered for each municipal year in the order in which they are presented, and there shall be noted on such reports, or in the book of reports, the date of the Meeting at which they were submitted.

§ 27-14. Keeping of Town reports on file.

The Town Clerk shall keep in his office, permanently bound, one or more files of the Town reports.

§ 27-15. Protection of original papers and documents.

He shall not allow original papers or documents to be taken from his office, except as they remain in his custody or by authority of law.

§ 27-16. Furnishing of Town Meeting records to Selectmen.

The Town Clerk shall annually furnish the Board of Selectmen with a true copy of the record of the proceedings of the Town Meetings held during the preceding year so that such record may be published in the Annual Town Report.

§ 27-17. Index of votes and resolutions.

Beginning with the year 1936, the Town Clerk shall make a complete index of all votes and resolutions adopted by the Town. Said index shall be in duplicate and may be made on cards or otherwise as the Selectmen direct, and it shall be arranged by topics, with references to the book and page in which such votes or resolutions are recorded. A copy of said index shall be furnished to the Selectmen, who shall keep the same in the vault in the Selectmen's office when not in use.

ARTICLE VI

Assessors**[Adopted as Art. VI of the 1983 Code]****§ 27-18. Duty to prepare and publish tax list.**

The Board of Assessors shall, in the year 1936 and every third year thereafter, prepare, publish and cause to be printed an official list of the real and personal estates in the Town liable to taxation. Said list shall contain the names of the owners, arranged alphabetically, the location and brief description of the property and its value as determined by the Assessors and the total tax assessed in the year in which said list is published. The Town Clerk shall distribute printed copies of said list to those who request the same.

ARTICLE VII
Town Accountant
[Adopted as Art. VII of the 1983 Code]

§ 27-19. Appointment; powers and duties.

The Selectmen shall appoint a competent accountant who shall perform all the duties and possess all the powers prescribed by MGL c. 41, §§ 55 to 61, inclusive.

§ 27-20. Preparation of financial statements.

The Town Accountant shall, immediately after the first day of each month, make to the Selectmen a detailed report of the amounts of the several appropriations and all drafts made on account of each appropriation and of all receipts during the preceding month and a summarized report of the same since the beginning of the fiscal year and of the unexpended balances of the several appropriations. He shall file a summarized statement of the fiscal affairs of the Town for the preceding fiscal year with the Secretary of the Advisory Committee not later than February 1 each year. He shall also prepare such other financial statements as may, from time to time, be required by the Selectmen.

§ 27-21. Contents of annual report.

The annual report of the Accountant shall include:

- A. A list of all notes issued during the year and the purposes for which the money was borrowed, giving the dates, the term, the amount, the rate of interest, the time of maturity, the premium, if any, received thereon and the names of the parties of whom the funds were borrowed.
- B. A list of all notes paid during the year and a list of all outstanding notes, with the dates on which they will mature.
- C. A statement of the amount of money received by the Town from other sources than taxation during the preceding year.
- D. A list of all insurance policies held by the Town, which list shall include a statement of the property covered, the names of the companies and the amount of each policy.

ARTICLE VIII
Gas Inspector
[Adopted as Art. 9C of the 1983 Code]

§ 27-22. Establishment.

There shall be a Gas Inspector who shall annually, on the first day of April, be appointed by the Board of Selectmen to serve for one-year from April 1, or until his successor is appointed.

§ 27-23. Requirements; salary.

- A. The person so appointed shall, if possible, be a citizen and resident of the Town not regularly employed out of Town nor regularly absent from Town. Such person shall hold a license as prescribed in Chapter 25 of the General Laws.
- B. His salary shall be established by the Personnel Board.

§ 27-24. Performance of duties.

The Gas Inspector shall perform such duties and shall have such powers as may be imposed or authorized by law.

ARTICLE IX
Town Administrator
[Adopted 4-8-2013 ATM by Art. 7]

§ 27-25. General overview.

- A. The Town Administrator shall act as the chief administrative officer of the Town of Southborough and shall be responsible to the Board of Selectmen, as its agent, for the effective management of all Town affairs placed in the Town Administrator's charge by the Town of Southborough Code, Town Meeting vote, or by vote and direction of the Board of Selectmen.
- B. The Town Administrator shall be responsible for the implementation of Town policies established by the Board of Selectmen, as well as ensuring that the decisions of the Board of Selectmen are fully executed. The specific functions and duties of the Town Administrator shall include, but not be limited to, the functions and duties described in this bylaw.
- C. Notwithstanding the provisions of this bylaw, the essential chief executive functions of the Town remain vested at all times in the Board of Selectmen who may assert, either preemptively or reactively by applicable statutory authority, that full executive power as elected officials of the Town in substitution for the powers delegated under bylaw to the Town Administrator. The Board of Selectmen may exercise its executive authority by majority vote.

§ 27-26. Powers and duties.

- A. Personnel:
 - (1) The Town Administrator, acting as an agent of the Board of Selectmen and as consistent with the Code of the Town of Southborough, shall supervise, direct and be responsible for the efficient administration of all departments and personnel under the jurisdiction of the Board of Selectmen and all functions for which the Town Administrator is given responsibility or control by the Town of Southborough Code, Town Meeting vote, or by vote of the Board of Selectmen.
 - (2) The Town Administrator shall act as Personnel Director and shall be the administrative representative of the Personnel Board. With the guidance and oversight of the Personnel Board, the Town Administrator shall:
 - (a) Develop, maintain, and administer the Personnel Bylaw which shall be approved annually at Town Meeting, and which includes but is not limited to: classification system, compensation system, personnel rules and regulations which indicate the rights and obligations of employees, disciplinary

procedures, personnel appraisal system, development and implementation of an ongoing training program, and any other personnel and hiring policies, practices, and regulations for Town employees not covered by collective bargaining agreements.

- (b) Administer and enforce the rules and regulations of the Personnel Bylaw with authority to interpret same but not to rescind or otherwise amend. The Director shall report to the Personnel Board, in writing, any interpretation made in any area where this bylaw is not reasonably clear.
 - (c) Furnish the Personnel Board with all information essential for the actions of that Board.
- (3) The Town Administrator shall direct contract negotiations, subject to the approval of the Board of Selectmen, and ensure ongoing compliance with their provisions.
- (4) Regarding departments within the jurisdiction of the Board of Selectmen:
 - (a) The Town Administrator shall, based upon merit and suitability, recommend the appointment or removal of department heads to the Board of Selectmen. The Town Administrator shall also provide annual evaluations of department heads to the Board of Selectmen.
 - (b) Department heads shall consult with the Town Administrator throughout the process of making any appointments or removals within their departments. The Town Administrator shall report to the Board of Selectmen on those appointments or removals.
 - (c) The Town Administrator may transfer personnel between departments, subject to the approval of the Board of Selectmen and consistent with the Code of the Town of Southborough and state law.
- (5) Regarding departments outside the jurisdiction of the Board of Selectmen, with the exception of the schools:
 - (a) All elected boards, officials and committees shall consult with the Town Administrator throughout the process of appointing or removing a department head, and shall provide written notice of intent to appoint or remove to the Town Administrator for the purpose of maintaining compliance with personnel policies, practices, or procedures of the Town.
 - (b) All elected boards, officials and committees shall consult with the Town Administrator throughout the process of contracting

personnel services to ensure compliance with personnel policies, practices, or procedures of the Town.

- (c) Department heads shall consult with the Town Administrator throughout the process of making any appointments or removals within their departments for the purpose of maintaining compliance with personnel policies, practices, or procedures of the Town.
- (d) Elected boards and committees and also department heads shall consult with the Town Administrator to ensure that their management of employees and contracted personnel is consistent with personnel policies, employment contracts, and practices in use in all Town departments.

B. Administrative:

- (1) The Town Administrator shall act as the Chief Procurement Officer under the provisions of Chapter 30B of the General Laws, and, subject to the authority of the Board of Selectmen, shall be responsible for the purchasing of all supplies, materials, equipment, and services for the Town, including the bidding and awarding of all contracts, except as follows:
 - (a) For supplies, materials, equipment, and services for the School Department, unless specifically requested by the School Committee.
 - (b) For library materials, supplies, equipment, and services specific to the function of the library, unless specifically requested by the Library Trustees.
 - (c) For personnel services as described within § 27-26A(5)(b).
- (2) The Town Administrator shall coordinate the activities of all Town departments serving under the Board of Selectmen with those under the control of other officers and multiple-member bodies elected directly by the voters.
- (3) The Town Administrator, subject to the authority of the Board of Selectmen, shall have full jurisdiction over the rental and use of all Town facilities, except schools and the library, and shall oversee all Town capital maintenance, construction, repairs and rental/ use of Town facilities, consistent with the Code of the Town of Southborough and state statutes.
- (4) Subject to policies established by the Board of Selectmen, the Town Administrator shall present for approval to the Board of Selectmen all warrants or vouchers, including payroll warrants, for payment of Town funds submitted by the Town Accountant.
- (5) The Town Administrator shall be responsible for working with Town officers and departments on Town loan and grant applications and,

in consultation with the office or department receiving the loan or grant, overseeing adherence to the conditions of such loans or grants.

- (6) The Town Administrator shall negotiate collective bargaining contracts on behalf of the Board of Selectmen, and subject to approval of the Board of Selectmen. The Town Administrator shall administer and enforce collective bargaining agreements and personnel rules and regulations within the purview of the Board of Selectmen.
- (7) The Town Administrator shall recommend to the Board of Selectmen on the prosecution, defense, and compromise of all litigation to which the Town is a party.

C. Financial management:

- (1) The Town Administrator shall, after consultations with the Board of Selectmen and the Advisory Committee, issue guidelines for requested appropriations to all departments and elected officials and boards whose budgets are appropriated by Town Meeting. Said guidelines shall be issued on or before October 30. Nothing herein shall conflict with the Advisory Committee's duties and obligations under state statute, nor shall it limit the Advisory Committee's right to issue independent guidelines for requested appropriations.
- (2) The Town Administrator shall be responsible for preparing the annual requested appropriations from departments under the jurisdiction of the Board of Selectmen.
- (3) The Town Administrator shall provide support, tools, and coordination for departments, elected officials and boards not under the Board of Selectmen in the development of their appropriation requests.
- (4) The Town Administrator shall provide to the Board of Selectmen and the Advisory Committee by January 30 budget proposal(s) consistent with guidelines described in § 27-26C(1).
- (5) The Town Administrator shall maintain a current estimate of expected revenues and expenditure trends for the next fiscal year.
- (6) The Town Administrator shall develop and maintain a capital facilities plan and budget for all municipal structures.
- (7) The Town Administrator shall maintain a capital equipment plan and budget for all other municipal capital equipment.
- (8) The Town Administrator shall be responsible for the application of modern accounting and financial reporting practices and further shall maintain accurate and centralized records, including but not limited to:

- (a) Financial documentation, including therein such information as the Board of Selectmen deems desirable.
 - (b) Personnel documentation for all employees, including therein evaluations and such information as the Personnel Board deems desirable.
 - (c) All documentation required to be maintained as per the Code of the Town of Southborough.
- (9) The Town Administrator shall prepare, annually, a five-year financial forecast of revenue, expenditures, including capital expenditures, and the general financial condition of the Town. Said plan shall be submitted to the Board of Selectmen, the Advisory Committee, the Board of Assessors and the School Committee, and shall be made available to the public.
- (10) The Town Administrator shall oversee the coordination, compilation, and distribution of the annual Town Report.
- (11) The Town Administrator shall develop and oversee performance measurement systems for municipal services.

D. General:

- (1) The Town Administrator shall serve as the Town's Chief Information Officer for any time period that this role remains unfilled. The Chief Information Officer shall be responsible for activities such as maintaining and enhancing the capabilities and integration of the information systems used in the various Town departments, improving citizen access to user-friendly Town information, and developing, maintaining, and enhancing necessary tools, including but not limited to: budgetary tools (operating and capital), a centralized recordkeeping system, and performance measurement systems.
- (2) The Town Administrator shall prepare the agenda for and attend all meetings of the Board of Selectmen, and shall cause full and complete records of such meetings to be taken and maintained.
- (3) The Town Administrator shall assist in the preparation of the warrants and motions for and attend all sessions of Town Meeting.
- (4) The Town Administrator shall present reports to the Board of Selectmen identifying priorities, concerns, issues and outcomes of the Town Administrator's office.
- (5) The Town Administrator shall act as the Board of Selectmen's liaison with federal, regional, and state authorities, as well as with all Town boards, committees, and officials outside the purview of the Board of Selectmen.

- (6) The Town Administrator shall provide leadership and direction in the development of short- and long-range plans, including but not limited to the gathering, analysis and preparation of data for studies, reports and recommendations to the Board of Selectmen.
- (7) The Town Administrator shall perform any other duties consistent with the office of the Town Administrator as may be required by bylaw, vote of Town Meeting, or vote of the Board of Selectmen.

§ 27-27. Severability provisions; amendments.

- A. If any section, subsection, paragraph, sentence, clause, word, or any other part of this bylaw shall be adjudicated by a court of competent jurisdiction to be unconstitutional, unenforceable, or otherwise invalid, such adjudication shall not affect, impair or invalidate the remainder of the bylaw, and it shall be construed to have been the legislative intent to enact this bylaw without such unconstitutional, unenforceable or invalid parts therein.
- B. The Board of Selectmen are hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

Chapter 31

PERSONNEL

Chapter 36

SELECTMEN

ARTICLE I

Miscellaneous Provisions**[Adopted as Art. IV, Secs. 1 through 3 and 9, of the 1983 Code]****§ 36-1. Authorization to settle legal claims.**

The Board of Selectmen shall have full authority as agent of the Town to prosecute and defend all suits in which the Town is a party. It may settle, at its discretion, any legal and valid claim or suit against the Town which does not require the payment of more than \$300. Any settlement requiring a payment greater than \$300, except when authorized by law, shall be made only when authorized by vote of a Town Meeting.

§ 36-2. Protection of Town's interests.

The Selectmen may appear, either personally or by the Town Counsel, before any committee of the Legislature, any state or County official or any board or commission to protect the interests of the Town, but are not authorized by this article to commit the Town to any course of action.

§ 36-3. Actions on conveyances.

All conveyances under seal which may hereafter be executed by the Town, pursuant to a vote of the Town or otherwise, shall be sealed with the Town Seal and subscribed by a majority of the Board of Selectmen for the time being, unless otherwise directed by the Town or by statute.

§ 36-4. Deriving of benefits from contracts or agreements.

No member of the Board of Selectmen shall enter into any contract or agreement from which he will derive any direct or indirect benefit with any department of the Town without the majority approval of the Advisory Committee. Said approval shall be recorded by the Secretary of the Advisory Committee, and a copy thereof duly attested by said Secretary shall be attached to such contract or agreement.

ARTICLE II

Issuance of Licenses

[Adopted as Art. XI, Sec. 3, of the 1983 Code]

§ 36-5. Authorization.

The Board of Selectmen is hereby authorized to issue licenses as provided by Chapter 148 of the General Laws, as amended, and may impose a reasonable license fee.

ARTICLE III

**Transfer Station; Violations and Fines
[Adopted 4-11-2005 ATM by Art. 54]****§ 36-6. Stickers required.**

Pursuant to the duly promulgated rules and regulations of the Board of Selectmen, valid transfer station stickers will be required for all residents utilizing the transfer station and its related facilities.

§ 36-7. Rules and regulations violations.

Failure to adhere to the provisions of the Selectmen's rules and regulations, as duly posted at the transfer station, will result in the issuance of a warning letter from the Superintendent of the Department of Public Works.

§ 36-8. Subsequent violations. [Amended 4-10-2007 ATM by Art. 39; 4-12-2016 ATM by Art. 32]

Subsequent violations of the rules and regulations at the transfer station, after the first warning letter has been issued, will result in a \$100 fine for each subsequent violation. Fines are set annually by the Board of Selectmen and shall be paid within 30 days on notification from the Board of Selectmen or their designee.

§ 36-9. Appeal to Board of Selectmen. [Amended 4-10-2007 ATM by Art. 39]

The Board of Selectmen will govern the process for administrating the imposition of fines, which may be appealed to the Board of Selectmen or their designee within 30 days of the dates of notification, by the Town. After due notice and hearing, the Selectmen or their designee shall have the authority to uphold, modify or repeal any such fine imposed. No fine will be delinquent while an appeal is pending before the Board or their designee. Violators shall have 10 days to pay said fines if notified by the Selectmen or their designee that the appeal has been denied. No transfer station sticker will be issued to residents with delinquent fines.

§ 36-10. Police Department enforcement.

The Police Department is further authorized to prosecute any delinquent unpaid fines pursuant to the applicable provisions of state statute.

Chapter 39**TOWN FLAG****§ 39-1. Acceptance; location.**

The Town voted to accept as its Town Flag the flag designed by the Superintendent of Cemeteries and first flown on Memorial Day 1973, which flag is presently located in the office of the Town Clerk.

Chapter 41**TOWN MEETINGS****GENERAL REFERENCES**

Town elections — See Ch. 42.

ARTICLE I
Miscellaneous Provisions
[Adopted as Arts. I and II of the 1983 Code]

§ 41-1. Date and time of Annual Town Meeting. [Amended 4-12-2016 ATM by Art. 36]

- A. The Annual Town Meeting for the transaction of business, except the election of Town officers and the voting upon questions as required by general or special law, shall be held on the second Monday of April at 7:00 p.m.

§ 41-2. Notice of Meeting.

Notice of every Town Meeting shall be given by posting attested copies of the warrant therefor at the Town Hall, the Fayville Hall and in at least nine other such public places as the Selectmen shall determine, seven days at least before the time appointed for such meeting.

§ 41-3. Notice of adjournment.

The Town Clerk shall, as soon as may be after the adjournment of any Town Meeting, post notices of such adjournment in the several places named in the preceding section. Said notice shall state the time to which the Meeting stands adjourned and shall contain a concise statement of the matters remaining to be considered and acted upon.

§ 41-4. Warrant Articles inserted by request.

Whenever an Article is inserted in a warrant upon the request of any person or persons, other than a Town officer, the Selectmen shall cause the name or names of such persons to appear in connection with such Article by adding the following: "Proposed by" and the name or names of such persons. If the number of persons requesting the insertion of an Article in a warrant exceeds 10, the Selectmen may omit all the names of such persons except the name of the first person who has signed the request or petition and, in such case, they shall add after such name "and . . . others," giving the number of the signers. If an Article is inserted at the request of a Town officer or board, the Selectmen shall indicate that such Article was proposed by such officer or board by adding the words "Proposed by" and then stating the official title of such officer or board.

§ 41-5. Copy of warrant to be sent to Advisory Committee Secretary.

The Board of Selectmen shall, as soon as may be after issuing a warrant for a Town Meeting, transmit a copy thereof to the Secretary of the Advisory Committee.

§ 41-6. Voting procedure.

Before any vote which the Moderator or the Town Meeting requires to be counted may be taken on any question which is the subject matter of any Article contained in the warrant for any Town Meeting, the Moderator shall define the bounds of the voting area and each individual section thereof and shall appoint two tellers to count the votes on each side of each section so defined. Such tellers shall be sworn to the faithful and impartial performance of their duties as such tellers. When any matter before a Town Meeting requires a count of votes for any purpose, each group of tellers shall immediately, upon completion of each count of the area assigned to such group, announce the same to the Meeting and, immediately thereafter, to the Moderator.

§ 41-7. Admittance to hall restricted.

Unless otherwise ordered by the Moderator or by vote of the Meeting, no person whose name is not on the list of registered voters shall be admitted to the hall where the meeting is being held. This provision shall be in force by the use of the checklist. The Moderator shall determine the bounds of the hall.

§ 41-8. Participation by Moderator restricted.

The Moderator, while occupying the Chair, shall not participate in any discussion before the Meeting.

§ 41-9. Order of warrant action.

Articles in the warrant shall be acted upon in the order in which they appear in the warrant, unless otherwise ordered by a vote of the Meeting.

§ 41-10. Certain actions to be in writing.

All reports, motions and resolutions submitted for the consideration of the Meeting which involve the expenditure of money shall be in writing. Any other report, motion or resolution shall be reduced to writing if the Moderator so directs.

§ 41-11. Procedure for speaking.

Every person, when about to speak, shall rise, respectfully address the Chair and wait until he is recognized, and, in speaking, he shall refrain from mentioning by name any other person present and shall confine himself to the question under consideration.

§ 41-12. Interruption of speakers. [Amended 4-9-1984 ATM by Art. 14]

No person, while speaking, shall be interrupted by another, except for a call for the orders of the day, a question of privilege, a point of order or notice of a motion to reconsider.

§ 41-13. Speaking more than once on any question.

No person shall speak more than once on any question to the exclusion of any other person who may desire to speak.

§ 41-14. Speakers having personal interest in discussion matters.

Any person who is employed in behalf of a person having an interest in any matter under consideration at any Town Meeting shall, immediately upon being recognized by the Moderator, state that he is so employed and shall also state the name and address of his or her employer.

§ 41-15. Committee appointments.

All committees shall be appointed by the Moderator, unless the Meeting by vote otherwise directs, and shall report as directed by the Meeting. All such appointments by the Moderator shall be made within 60 days of the adjournment of the Meeting at which it was voted to establish such committee, and all vacancies occurring in any such committees so appointed shall be filled by the Moderator within 60 days of such vacancy. If a committee does not report as directed, or at the succeeding Annual Town Meeting, it shall be deemed discharged, unless the time during which it may report has been extended by vote of the Meeting.

§ 41-16. Submittal of committee reports to Advisory Committee.

Whenever the report of a committee contains a recommendation for the appropriation of Town funds, the committee making such recommendations shall submit a copy thereof to the Advisory Committee at least six days before the Town Meeting at which said report is to be considered by the Town; and no such recommendation shall be acted upon until a report thereon has been made by the Advisory Committee.

§ 41-17. Submittal of committee reports to Moderator.

Whenever a report of a committee is placed in the hands of the Moderator, it shall be deemed to have been submitted to the Meeting for its action thereon, except as is provided in § 41-16.

§ 41-18. Reconsideration of actions. [Amended 4-9-1984 ATM by Art. 18]

Any action taken at any Town Meeting shall be reconsidered only by a 2/3 vote.

§ 41-19. Motions to dissolve meeting.

No motions, the effect of which would be to dissolve the Meeting, shall be in order until every Article in the warrant has been duly considered and acted upon.

§ 41-20. Quorum requirement. [Amended 4-9-2007 ATM by Art. 34]

The presence of 100 voters at an Annual Town Meeting and 100 voters at a Special Town Meeting for the transaction of business shall constitute a quorum, and no Article shall be acted upon unless a quorum is present.

§ 41-21. Rules of order. [Amended 4-13-1987 ATM by Art. 35]

The procedure and conduct of Town Meetings not herein provided for or otherwise regulated by general or special laws of the commonwealth shall be governed by the most recent edition of Town Meeting Time, so far as it is applicable.

§ 41-22. Reports of noncompliance. [Added 4-9-1984 ATM by Art. 15]

A report or reports shall be given at each Annual Town Meeting of all resolutions, mandates and directives of all Annual and Special Town Meetings of the preceding three years with which there has not been full compliance. Such reports shall be given by the responsible elected official or officials or an appropriate designee or designees.

ARTICLE II
Moderator
[Adopted as Art. IIA of the 1983 Code]

§ 41-23. Election.

A Moderator shall be elected by ballot at each Annual Town Meeting for the election of officers and shall hold office for the term of one-year.

§ 41-24. Filling of vacancies.

If at the time of any Town Meeting or Special Town Meeting a vacancy exists in the office of Moderator, the Town Meeting shall, prior to considering the business of that Meeting, elect by written ballot a Moderator to preside at that Meeting and to hold office after that Meeting until replaced by a duly elected and qualified replacement. If no candidate accepts nomination at said Town Meeting or Special Town Meeting, then the Town Clerk shall serve as Moderator for that Meeting as provided for in MGL c. 39, § 14.

§ 41-25. Holding of other offices prohibited.

The Moderator shall hold no other elective or appointive Town office.

ARTICLE III

Report and Warrant

[Adopted as Art. IV, Secs. 8 and 8A, of the 1983 Code; amended in its entirety 9-29-2009 STM by Art. 13]

§ 41-26. Availability of Annual Report and Warrant.

The Selectmen shall have available copies of the Annual Town Report (stating in detail what actions have been taken during the preceding year by all Town officials), together with the Town Warrant (stating the agenda for the Town Meeting), for residents to take home from the Southborough Public Library, the Southborough Town House, the Southborough Police Station and the Southborough Transfer Station. The Town shall place a legal advertisement in a local newspaper and post a notice on the local cable television bulletin board no later than seven days before an Annual Town Meeting stating that both the Annual Report and Warrant are available at these four locations. This same notice shall be posted together with a copy of the Annual Town Report and Warrant at 12 public locations no later than seven days before the Annual Town Meeting. For a Special Town Meeting, only the legal notice and the Warrant will be posted and made available 14 days before the Special Town Meeting.

Chapter 42
TOWN ELECTIONS

GENERAL REFERENCES

Town meetings — See Ch. 41.

ARTICLE I
Procedures

§ 42-1. Annual Town election.

The election of Town officers and the voting on questions required by General or Special Acts on laws shall be held on the second Tuesday of May.

§ 42-2. Poll hours.

Pursuant to MGL c. 54, § 64, as amended, the polls shall be opened from 8:00 a.m. to 8:00 p.m. or earlier as may be determined by the Board of Selectmen.

Chapter 50**ALCOHOLIC BEVERAGES****§ 50-1. Consumption on public ways prohibited.**

No person shall consume any alcoholic beverage, as defined under Chapter 138 of the General Laws, while in or upon any public way in the Town of Southborough.

§ 50-2. Consumption in public places restricted.

No person shall consume any alcoholic beverage, as defined in Chapter 138 of the General Laws, upon any way or place in the Town of Southborough to which the public have access as invitees or licensees without permission of the owner or person in control of said premises or unless the sale or distribution of said beverages has been authorized by license from the Board of Selectmen under a license as provided by said Chapter 138.

§ 50-3. Possession and consumption in parks, playgrounds and public schools restricted.

No person shall keep, use, consume or have in his/her possession any alcoholic beverage, as defined under Chapter 138 of the General Laws, in any park, playground or public school premises in the Town of Southborough, except as may be sold and distributed in connection with a license issued by the Board of Selectmen under said Chapter 138.

§ 50-4. Violations and penalties.

Whoever violates any provision of this chapter shall be punished by a fine of not more than \$50.

Chapter 51**MARIJUANA OR TETRAHYDROCANNABINOL, PUBLIC
CONSUMPTION OF****GENERAL REFERENCES**

Alcoholic beverages — See Ch. 50.

Peace and good order — See Ch. 131.

§ 51-1. Consumption and possession.

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area

owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

§ 51-2. Enforcement; violations and penalties.

This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21, or by noncriminal disposition pursuant to MGL c. 40, § 21D, by any police officer. The fine for violation of this bylaw shall be \$300 for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

Chapter 52

AMUSEMENT DEVICES

§ 52-1. Licensing authority; annual fee.

The Board of Selectmen is hereby authorized to charge an annual fee, as set from time to time by Town Meeting action, for the licensing of each automatic amusement device.

Chapter 62

BUILDING CONSTRUCTION

GENERAL REFERENCES

Demolition delay — See Ch. 63.

Numbering of property — See Ch. 124.

Alarms — See Ch. 95.

Property maintenance — See Ch. 136.

§ 62-1. Applicability; when effective.

- A. The provisions of these regulations shall relate to the construction, alteration and maintenance of buildings and other structures within the limits of the Town of Southborough, County of Worcester, except such as are owned and occupied by the United States or owned and occupied by the Commonwealth of Massachusetts or by any County, and also excepting bridges, quays and wharves.
- B. These regulations shall become effective upon acceptance by the Town of Southborough, in accordance with the provisions of MGL c. 143, § 3.

§ 62-2. Building Department established.

There shall be a Department, to be called the "Building Department."

§ 62-3. Inspector of Buildings.

- A. The Office of Inspector of Buildings is hereby established.
- B. The Inspector of Buildings shall be appointed for a three-year term, and may, at pleasure, be removed by the Board of Selectmen, who shall fix his salary and provide for reimbursement of his incidental expenses in the performance of his duties. **[Amended 4-8-1985 ATM by Art. 45]**
- C. No person shall be appointed as Inspector of Buildings who has not had at least five years' experience as a builder, civil engineer or architect or as a superintendent, foreman or competent mechanic in charge of construction.
- D. The Inspector of Buildings shall enforce all laws and regulations relating to the construction, alteration, repair, removal, demolition, equipment use and occupancy, location and maintenance of buildings and structures, except as may otherwise be provided. He shall inspect all building operations within the Town and shall have the right of entry at reasonable hours. He shall require that all workmanship and all building materials shall be of good quality, and that types and methods of construction shall be in accordance with generally accepted standards of engineering practice, as defined by the Board of Standards Basic Principles of Building Construction, and not inconsistent with law. In case of violation of these regulations, he shall order, in writing, the suspension of the work, which notice shall state the conditions under which work may be resumed.

§ 62-4. Keeping of records; making of reports.

The Inspector of Buildings shall keep records of applications, permits issued, certificates issued, inspections, reports and notices or orders issued. He shall make a report to the Board of Selectmen annually and at such other times as requested by said Board.

§ 62-5. Permit applications.

- A. It shall not be lawful to construct, alter, remove, demolish or change the class of occupancy of any building or structure without first filing with the Inspector of Buildings an application, in writing, and obtaining a permit.
- B. An application for a permit shall be submitted in such form as the Inspector of Buildings may prescribe and shall be made by the owner or his duly authorized representative.
- C. Applications for permits shall be accompanied by such plans, drawings and other data as the Inspector of Buildings may require. When required by the Inspector of Buildings, there shall be filed also a plot diagram, drawn to scale, showing the size and location by dimension of the proposed new construction and other existing or proposed structures on adjoining property within 10 feet of the property lines.

- D. Nothing in this section shall prohibit the filing of amendments to an application. Such amendments, after approval, shall be filed with and be deemed a part of the original application. In existing buildings, minor repairs may be made without filing an application for obtaining a permit.

§ 62-6. Action on permits; inspections; fees.

- A. It shall be the duty of the Inspector of Buildings to act upon applications for a permit, plans or amendments thereto without unreasonable or unnecessary delay.
- B. The Inspector of Buildings shall inspect all buildings or structures during construction to see that the provisions of these regulations are complied with and that the construction is prosecuted safely.
- C. The fee required for a building permit shall be that established by the Board of Selectmen.

§ 62-7. Certificates of occupancy.

- A. It shall be unlawful to use or permit the use of any building or premises or part thereof hereinafter created, erected, changed or converted, wholly or partly, in its use or structure, until a certificate of occupancy shall have been issued by the Inspector of Buildings, certifying that the conditions of the permit have been fulfilled in accordance with the provisions of these regulations.
- B. Upon request of the holder of a permit, or the owner, the Inspector of Buildings may issue a temporary certificate of occupancy for part of a building, provided that such temporary occupancy or use would not jeopardize life, limb or property.

§ 62-8. Unsafe buildings.

Upon notice of an unsafe building, the Inspector of Buildings shall proceed in accordance with the provisions of MGL c. 143, §§ 6 through 12, inclusive.

§ 62-9. Violations and penalties.

If no other penalty for violations is provided, whoever violates any of the provisions of these regulations shall be liable to a fine of not less than \$50, nor more than \$100.

Chapter 63

DEMOLITION DELAY

GENERAL REFERENCES

Building construction — See Ch. 62.

Zoning — See Ch. 174.

§ 63-1. Intent and purpose.

- A. This bylaw is enacted for the purpose of protecting and preserving significant buildings and structures within the Town of Southborough which constitute or reflect distinctive features of the architectural or historical resources of the Town, and to encourage owners of such buildings and structures to seek out alternative options to preserve, rehabilitate or restore such buildings rather than to demolish them, thereby promoting the public welfare and preserving the cultural heritage of the Town.
- B. To achieve these purposes, the Southborough Historical Commission is authorized to advise the Building Inspector with respect to the issuance of permits for the demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided by this bylaw.

§ 63-2. Definitions.

BUILDING INSPECTOR — The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

BUILDINGS AND STRUCTURES — Any combination of materials forming a shelter for persons, animals, or property that constitute the historic built environment of the Town.

COMMISSION — The Southborough Historical Commission.

DEMOLITION — Any act of pulling down, destroying, removing or razing a building or commencing the work of total or substantial exterior destruction with the intent of completing the same.

DEMOLITION BY NEGLECT — A process of ongoing damage to the features, viability and/or functionability of an unoccupied building leading towards and/or causing its eventual demolition due to decay and/or structural failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the building from pests or vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice, and wind through the roof, walls, or apertures.

DEMOLITION PERMIT — The permit issued by the Building Inspector for a demolition, substantial demolition or removal of a building, excluding a demolition permit issued solely for the demolition of the interior of a building.

HISTORICALLY OR ARCHITECTURALLY SIGNIFICANT BUILDING — Any building, in whole or in part, which was constructed prior to 1925 and is included in the Southborough Massachusetts Historic Properties Survey prepared by the Commission in 2000 (with revisions and updates in 2015) on file with the Town Clerk's office.

PREFERENTIALLY PRESERVED — Any historically or architecturally significant building which the Commission determines is in the public interest to be preserved or rehabilitated rather than to be demolished.

§ 63-3. Procedure.

- A. No permit for the demolition of a historically or architecturally significant building shall be issued other than in conformity with the provisions of this bylaw, as well as in conformity with the provisions of other laws applicable to the demolition of buildings and the issuance of permits generally.
- B. Application contents: Every application for a demolition permit for a historically or architecturally significant building shall be filed with the Building Inspector and shall contain the following information: (i) the address of the building to be demolished; (ii) the owner's name, address and telephone number; (iii) a brief description of the type of building and the condition requiring issuance of the permit; (iv) date of building as established by the Board of Assessors, deed or documentation verifying year of construction; and (v) a brief description of the proposed reuse, reconstruction or replacement on the premises upon which the building is located.
- C. Within seven business days from receipt of an application for a demolition permit of a historically or architecturally significant building, the Building Inspector shall forward a copy to the Commission. No demolition permit shall be issued during this time.
- D. Within 10 business days after receipt of the application for demolition permit by the Commission, the Commission shall make a determination of architectural and/or historical significance based upon the federal Secretary of the Interior's standards for historic buildings. Upon determination by the Commission that the building is not architecturally and/or historically significant, the Commission shall so notify the Building Inspector in writing. Upon receipt of such notification, or after the expiration of 15 business days from the date of submission to the Commission, if the Building Inspector has not received notification from the Commission, the Building inspector may issue the demolition permit.
- E. Upon determination by the Commission that the building is historically and/or architecturally significant, the Building Inspector and applicant shall be so notified in writing, and a demolition permit shall not be issued. The Commission shall hold a public hearing within 15 business days of the determination of significance to determine whether the building should be preferentially preserved. Public notice of the time, place and purpose of the hearing shall be published by the Building Department at the expense of the applicant in a newspaper of general circulation in the Town not less than seven days before the day of said hearing and shall be posted in a conspicuous place in the Town Hall for a period of not less than seven days before the day of said hearing.

- F. If after a public hearing the Commission determines that the significant building should not be preferentially preserved, the Commission shall notify the Building Inspector, in writing, within five business days of the hearing, and the Building Inspector may issue a demolition permit upon receipt of the written decision.
- G. If after a public hearing the Commission determines that the significant buildings should be preferentially preserved, the Commission shall so notify the Building Inspector in writing within five business days of the hearing, and no demolition permit may be issued until nine months after the date of the determination by the Commission.
- H. Notwithstanding anything contained in Subsection G, the Building Inspector may issue a demolition permit for a preferably preserved building at any time after receipt of written advice from the Commission to the effect that either:
 - (1) The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building; or
 - (2) The Commission is satisfied that for at least nine months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful.

§ 63-4. Responsibility of owners.

It shall be the responsibility of the owner of record or his designee to assist in the facilitation of the above process by providing information, allowing access to the property and securing the premises; for participating in the investigation of preservation options; and for actively cooperating in seeking alternatives with the Commission and any interested parties.

§ 63-5. Emergency demolition.

Nothing in this bylaw shall prohibit the Building Inspector from immediately ordering the demolition of any building in the event of imminent danger to the safety of the public pursuant to the applicable standards under the State Building Code.

§ 63-6. Demolition by neglect.

- A. If the Building Inspector has reason to believe, through visual inspection or other means, that a significant building may be undergoing demolition by neglect, then the Building Inspector shall notify the Commission and the owner, and the Commission and the Building Inspector shall jointly hold a public hearing to i) confirm whether or not the building is a significant building, and ii) determine whether or not it is undergoing demolition by neglect, which shall require the concurrence of the Commission. In furtherance of

determining its condition, the Commission may, at any time, request an inspection of the building by the Building Inspector.

- B. If the Commission and the Building Inspector agree that the building is undergoing demolition by neglect, the Commission and the Building Inspector shall attempt to negotiate a voluntary agreement with the owner for appropriate and timely repairs sufficient to structurally stabilize the building and/or prevent further deterioration. The Building Inspector will report the result to the Commission.
- C. In the event that the Building Inspector determines that he is not able to negotiate such an agreement with the owner, for any reason, or that the owner has agreed to undertake but has failed to satisfactorily complete such repairs in a timely manner, then the Building Inspector may take such action as is permitted, including seeking a court order that specific repairs be undertaken to secure the building against the elements, vandals and vermin, to halt further deterioration, and to stabilize it structurally. The Building Inspector may forbear from commencing an action in court for any reason and will preferentially consider any claim of undue economic hardship by the owner.
- D. Upon completion of all repairs that have been agreed upon between the owner and the Building Inspector or that have been ordered by the Building Inspector, or that have been ordered by the court, and upon certification by the Building Inspector that said repairs have been completed, the Building Inspector shall certify that the building is no longer undergoing demolition by neglect.

§ 63-7. Enforcement and remedies.

The Building Inspector is specifically authorized to institute any and all actions and proceedings, in law or equity, as he or she may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of two years after the date of the completion of such demolition. As used herein, "premises" refers to the parcel of land upon which the demolished significant building was located and all adjoining parcels of land under common ownership or control.

§ 63-8. Historic Districts Act.

Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic Districts Act, MGL c. 40C. If any of the provisions of this bylaw do so conflict, that Act shall prevail.

§ 63-9. Additional rules and regulations.

The Historical Commission is authorized to promulgate from time to time rules and regulations it deems necessary to administer the bylaw that are not inconsistent with applicable state law.

§ 63-10. Severability.

If any provision, section, paragraph, sentence or word or other part of the bylaw provisions, for any reason, is determined by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, then it is the intent of this bylaw for Home Rule purposes that the remaining provisions continue in full force and effect.

Chapter 68**CEMETERIES****Chapter 81****DOGS AND OTHER ANIMALS****GENERAL REFERENCES**

Hunting — See Ch. 110.

ARTICLE I

Animals

[Adopted as Art. X, Sec. 2, of the 1983 Code]

§ 81-1. Pasturing in streets or ways prohibited.

No owner or person having charge of any horse, cow, swine, sheep, goat or other grazing animal shall permit the same to pasture in any street or way within the Town.

ARTICLE II

Dogs**[Adopted as Art. XA of the 1983 Code]****§ 81-2. Definitions.**

As used in this article, unless the context otherwise indicates, the following terms shall have the meanings indicated:

DOG — All animals of the canine species, both male and female.

KENNEL — One pack or a collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes, and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over, owned or kept by a person on a single premises, irrespective of the purpose for which they are maintained. **[Added 9-29-2009 STM by Art. 8]**

OWNER — Any person or persons, firm, association or corporation owning, keeping or harboring a dog, as herein defined.

PUBLIC NUISANCE — Any dog shall be deemed a "public nuisance" if such dog is found to be not on the premises of the owner of such dog, if such dog attacks persons or domestic animals; or if such dog is found to be on a public school ground when not under restraint, if such dog chases moving vehicles or if such dog persistently and prolongedly barks and/or howls. Exceptions to this are as follows:

- A. If such dog is attached to a restraining device or under the care and control of a person competent to restrain such dog so that it will not be a threat to public safety. The mere muzzling of such a dog shall not satisfy the requirements of this article.
- B. If such dog is to be used as a so-called "hunting dog" and is being supervised as such by a person competent to restrain such dog so that it shall not be a threat to public safety.

§ 81-3. Dogs as public nuisances prohibited.

No owner or keeper of any dog shall permit such dog, whether licensed or unlicensed, to become a public nuisance within the Town of Southborough at any time.

§ 81-4. Impoundment. [Amended 4-8-1985 ATM by Art. 11]

It shall be the duty of the Animal Control Officer to investigate complaints concerning any dogs which are alleged to be in violation of this article and to apprehend any dog found by him to be in violation of one or more of the provisions of this article regarding public nuisances. It shall further be the duty of the Animal Control Officer to apprehend any dog found by him to be in violation of the definition of "public nuisance" in § 81-2, even though no official complaint has been made by a citizen. All such dogs apprehended by

the Animal Control Officer or by the Police Department shall be impounded in a suitable place.

§ 81-5. Disposition of dogs; storage fees. [Amended 4-8-1985 ATM by Art. 11; 4-13-1987 ATM by Art. 46; 9-29-2009 STM by Art. 8]

- A. If such dog so impounded has upon it the name or address of the owner thereof, or if the name of said owner is otherwise known, then the Animal Control Officer shall immediately notify the owner, and if the owner is not known, then no notice shall be necessary.
- B. Any dog confined by the Animal Control Officer, unless picked up by the owners, shall be kept for at least 10 days.
- C. A storage kennel fee for the boarding of impounded dogs shall be charged at a rate based on contractual agreements between the Board of Selectmen and the contractor/kennel. Such charges will be made public at least 14 days before being effective, and a copy of such charges then in effect will be maintained by the Town Clerk for public inspection.
- D. Any dog confined by the Animal Control Office shall not be released to the owner until the owner produces evidence of a current dog license and pays all fines and storage fees.

§ 81-6. Disposition of unclaimed dogs.

Any dog which has been impounded and has not been redeemed by the owner within five days shall be disposed of as provided by MGL c. 140, § 151, and any amendment thereto.

§ 81-7. Violations and penalties. [Amended 4-13-1987 ATM by Art. 47; 4-12-2016 ATM by Art. 34]

Any owner or keeper of a dog in the Town that is found to be in violation of the provisions of Chapter 81 of the Code of the Town of Southborough shall be liable to a penalty according to the following schedule:

- A. First violation (up to 30 days past deadline): \$25.
- B. Second violation (30 days or more past deadline): \$50.
- C. (Reserved)
- D. Failure to comply with the Selectmen's hearing order under MGL c. 140: \$100.
- E. Trash day nuisance: \$15.

§ 81-8. Dog licensing fees. [Added 4-12-2016 ATM by Art. 34⁷]

- A. The fee for every dog license issued in the Town shall be posted in the Schedule of Fees in the office of the Town Clerk.

- B. The deadline to renew a license shall be 30 days following the expiration of the prior license. After that date, a penalty will be added to the license fee, as posted in the Schedule of Fees in the office of the Town Clerk.
- (1) Any dog acquired or moved into the Town shall be required to obtain a license within 30 days, or upon reaching the age of six months, whichever occurs last. After 30 days, the owner shall be subject to late fees as posted in the Schedule of Fees in the office of the Town Clerk.
- C. If any matter relating to an expired license remains unresolved after 60 days, either the owner or the Town may bring an action in the District Court of Westborough requesting that the matter be adjudicated.
- D. Fee exemptions:
- (1) No fee shall be charged for any service dog as defined by the Americans with Disabilities Act (ADA), provided that the dog has been trained and is in the actual service of a resident of the Town.
- (2) Even if exempt from the licensing fee, all dogs in the Town must obtain a license following normal procedures, or will be subject to the fines and penalties posted in the Schedule of Fees in the office of the Town Clerk.
- E. Once a dog license fee has been paid to the Town, no fee or portion thereof shall be refunded.

§ 81-9. Authority to issue fines; disposition of fees. [Added 4-12-2016 ATM by Art. 34]

- A. The Town Clerk, the Animal Control Officer, and the Police Chief shall have authority to issue fines for violations relating to dog licenses.
- B. All funds received by the Town Clerk as payment for dog licenses, replacement tags, and related fees and fines shall be paid over to the Town Treasurer.

§ 81-10. (Reserved)

§ 81-11. Removal of dog litter. [Added 4-12-2016 ATM by Art. 33]

- A. It shall be the duty of the owner and each person who possesses or controls a dog to remove and properly dispose of any feces discharged by such dog on any sidewalk, walkway, street, park, public area, any other public property, or any private property in the Town.

7. **Editor's Note: This bylaw also repealed former § 81-8, Disposition of funds, as amended; § 81-9, Licensing deadline; penalty, added 4-14-1986 ATM by Art. 32; and § 81-10, Licensing fees, added 9-29-2009 STM by Art. 8]**

- B. Any owner or other person who violates the provisions of this section shall be punished by a fine of \$25 for each offense.
- C. The Animal Control Officer or any duly appointed police officer of the Town shall be authorized to enforce the provisions of this bylaw.

Chapter 85

EARTH REMOVAL

GENERAL REFERENCES

Building construction — See Ch. 62.

Zoning — See Ch. 174.

Wetlands protection — See Ch. 170.

Subdivision of land — See Ch. 244.

§ 85-1. Purpose.

This bylaw is intended to provide regulation for the filling of land and the removal of our valuable natural resources, including sand, gravel, stone, soil, loam, sod, clay and mineral products to protect land, water, scenic and historic resources.

§ 85-2. Definition.

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

EARTH REMOVAL — The removal of earth materials from a lot or parcel, including, but not limited to, sand, gravel, stone, soil, loam, sod, clay and mineral products.

§ 85-3. Applicability.

The filling or removal of materials consisting of more than 400 cubic yards or stockpiling of materials consisting of more than 100 cubic yards of sand, gravel, stone, soil, loam, sod, fill and mineral products to or from a lot or parcel not in public use shall require an earth removal permit granted by the Board of Selectmen unless such removal is:

- A. At the site of, incidental to, and in connection with, the necessary excavation, grading and construction of a building, structure, parking areas and appurtenant driveways pursuant to an approved subdivision, special permit or site plan decision by the Planning Board; or
- B. Pursuant to a building permit issued by the Building Inspector on a site on which the earth removal work is occurring on an existing or proposed slope of 15% or less; or
- C. For the purpose of gardening, landscaping, construction of walkways, patios, driveways or similar purposes, swimming pools, installation, repair or replacement of septic systems and wells when approved by the Board of Health, providing the earth removal work is on an existing or proposed slope of 15% or less; or
- D. For the purpose of the construction and associated grading of a street that has been approved by the Planning Board; or

- E. For the purpose of public works activities related to the maintenance or improvement of public land or buildings, the maintenance, reconstruction or resurfacing of any public way; or the installation of drainage structures or utilities that have been approved by the appropriate authorities; or
- F. For the removal of earth materials undertaken in connection with a sand and gravel operation or similar enterprise where such activity is allowed by zoning; or
- G. For the removal of earth materials undertaken in connection with an agricultural use if the removal is necessary for or directly related to planting, cultivating or harvesting or the raising or care of animals; or
- H. In accordance with the terms of an order of conditions or determination of applicability issued by the Conservation Commission pursuant to MGL c. 131, § 40, or the Southborough Wetlands Protection Bylaw, Chapter 170 of the Code of the Town of Southborough.

§ 85-4. Application and procedure.

- A. The Board of Selectmen (hereinafter "the Board") shall be the permit granting authority for the issuance of an earth removal permit. Such permit applications shall be submitted, considered, and issued only in accordance with the provisions of this bylaw.
- B. Any person who desires an earth removal permit shall submit an earth removal plan prepared and stamped and signed by a professional engineer registered in Massachusetts, or a registered land surveyor, as appropriate, showing existing and proposed topography at a scale of one inch equals 20 feet, including:
 - (1) The boundaries and topography of the property, including contours at a two-foot interval specifically indicating the areas with slopes 15% or greater on which the earth removal is proposed to occur;
 - (2) The size and location of all existing and proposed buildings, structures, driveways and parking areas on the site and the location of all structures on abutting properties within 50 feet of the property lines of the parcel;
 - (3) A plan and narrative description of the method of removal, including the means proposed to provide erosion and sedimentation control, to protect groundwater, to control dust, and to protect abutting properties and/or adjacent areas; and
 - (4) A planting plan to ensure permanent revegetation of the site unless the disturbed area will be covered by gravel, hardscape or a building or structure.
- C. Based upon the size or character of the project, including the volume of earth materials to be removed, area of disturbance and the percent

slope on which the work is to occur, the Board may require additional information or an impact statement or may waive some or all of the requirements of the earth removal permit application.

- D. The Board shall hold a public hearing within 60 days of receipt of an application for an earth removal permit. Notice of said hearing shall be given, at the expense of the applicant, by publication in a newspaper of general circulation in Southborough and by written notice to all abutters and abutters to abutters within 300 feet.
- E. The applicant shall make all requests for waivers in writing. The Board may require the applicant to submit supporting technical information and documentation to demonstrate why such waiver/s should be granted. The Board's decision to grant or deny waivers shall be in writing and shall set forth the reasons for the grant or denial.

§ 85-5. Findings and conditions of approval.

- A. The Board shall not approve an application for an earth removal permit unless it finds that, where applicable, all of the following requirements will be met:
 - (1) Reasonable measures shall be employed to minimize adverse impacts on wildlife habitats and corridors, natural or historic landscape features, and scenic vistas and views;
 - (2) There shall be no net increase in the rate of stormwater runoff from the site;
 - (3) There shall be no net increase in the volume of stormwater runoff across the boundaries of the site unless provisions have been made to tie into the public storm drains, where available, with the approval of the appropriate parties or authorities or the Board has determined that all reasonable provisions have been made to minimize any changes in stormwater runoff at the site;
 - (4) There shall be no adverse impacts to groundwater resources in terms of quantity or quality;
 - (5) There shall be no adverse impacts to abutting properties from any change in volume of stormwater runoff resulting from earth removal, including erosion, silting, flooding, sedimentation or impacts to wetlands, groundwater resources or wells;
 - (6) The duration of exposure of disturbed areas due to removal of vegetation, soil removal, and/or regrading shall be set forth in a written time table and approved by the Board;
 - (7) Where the site is not proposed to be covered with gravel, hardscape, or a building or structure, a planting plan to ensure permanent revegetation of the site has been approved;

- (8) Areas to be planted shall be loamed with not less than six inches compacted depth of good quality loam and seeded with turf grass seed or other appropriate ground cover in accordance with good planting practice;
 - (9) Dust control shall be used during grading operations if the grading is to occur within 500 feet of an occupied residence or place of business, school, playground, park, cemetery, or place of worship; and
 - (10) Throughout the duration of the earth removal process a gravel apron of 15 feet wide and at least 25 feet long shall be required at any site access from a paved public way to prevent unstable material from being transported onto the roadway by vehicle tires.
- B. The Board may require a cash performance guaranty to ensure compliance with these requirements or to reclaim the site. The form of the bond shall be approved by the Board upon the recommendation of Town Counsel and the Town Treasurer, as appropriate. With the approval of the Board and upon the recommendation of Town Counsel and the Town Treasurer, as appropriate, the applicant may substitute an irrevocable letter of credit or performance bond in lieu of the cash performance guaranty. Any performance bond or letter of credit shall be executed and maintained by a financial institution, surety, or guaranty company qualified to do business in the Commonwealth of Massachusetts.

§ 85-6. Requirements and limitations.

- A. Based upon the nature of the application the Board may impose reasonable requirements or limitations to minimize the impacts, if any, on abutting properties or uses.
- B. The Board may deny an earth removal permit if it determines the requirements of this bylaw are not met, or the intent of the application is to circumvent other provisions of the Town's bylaws or regulations.
- C. No permit issued pursuant to this bylaw shall be effective for more than one year from the date of issue. A request to extend said time limits shall be made in writing to the Board at least 30 days prior to said expiration date. After consideration of the request for extension, the Board may grant or deny such extension, and require any appropriate changes to this approval. Notice of a request to extend said time limits, shall be made by written notice at the expense of the applicant, to all abutters and abutters to abutters within 300 feet.
- D. The failure of the Board to act upon any application for an Earth Removal Permit for a period of 90 days after receipt thereof shall constitute approval of the application.

§ 85-7. Enforcement.

The Board or its authorized agent and the Town of Southborough shall have the power and duty to enforce this bylaw, its regulations, decisions, orders, violation notices, and enforcement orders issued pursuant to this bylaw, and may pursue all civil and criminal remedies for such violations.

§ 85-8. Severability.

Any determination that a particular provision or set of provisions in this bylaw are invalid or unenforceable shall not render ineffective, unenforceable, or inapplicable the remainder of this bylaw.

Chapter 91**FEES**

ARTICLE I

License Fees

[Fees for various licenses are set from time to time by Town Meeting action. The up-to-date fee amounts are on file in the office of the Town Clerk.]

ARTICLE II

Police User Detail Fees

[See Ch. 234, Fees, Art. I, Police User Detail Fees.]

Chapter 95**FALSE ALARMS****GENERAL REFERENCES**

Building construction — See Ch. 62.

Numbering of property — See Ch. 124.

Gas installations — See Ch. 103.

§ 95-1. Definitions.

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

ALARM SYSTEM — Any device which when activated transmits a signal to the Police and/or Fire Department, or transmits a signal to a person or company, who relays information to the Police and/or Fire Department, or produces an audible or visible signal to which the Police and/or Fire Department is expected to respond.

ALARM USER — Any person who is the owner or person in charge of premises where an alarm system is maintained within the Town of Southborough.

FALSE ALARM — The activation of an alarm which results in the Police Department responding where it is determined after investigation by the Police Department that no criminal activity or attempted criminal activity has occurred, or the Fire Department responding where no actual fire is, or has occurred. A false alarm does not include alarms caused by hurricanes, surges or failures in the transmission of electrical power or other conditions that are beyond the control of the user, or in the case of a fire alarm, smoke caused by cooking, fireplace and stove use where no damage occurs.

TOWN — The Town of Southborough.

§ 95-2. Responsibility to register alarm systems.

- A. Every alarm user shall register an alarm system by completing the required form which will include his/her name, person who is authorized to respond to an emergency signal transmitted by an alarm system and who can open or provide access to the premises where the alarm is located.
- B. All existing alarm systems shall be registered with the Town of Southborough before January 1, 2005. All alarms users will register annually by January 1 of each subsequent year. The annual registration fee will be determined by the Board of Selectmen.
- C. All security alarm systems installed after the effective date of this bylaw shall be registered with the Chief of Police, and all fire and medical alarm systems installed after the effective date of this bylaw shall be registered with the Fire Chief within 30 days of the date of installation.

- D. Penalty. Failure to comply with any Subsection of § 95-2 shall be punishable by a fine of \$100 for each offense.

§ 95-3. Equipment limitations.

- A. Automatic dialer devices prohibited. It shall be unlawful to install a mechanical protection device that is automatically keyed to and/or activates the telephone line(s) controlled by and/or listed to the Southborough Police and Fire Departments. All such devices installed before the effective date of this bylaw shall be removed before July 1, 2005.
- B. Audible device time limitation. All newly installed security alarm systems which use an audible bell, horn, or siren shall be equipped with an automatic shutoff device, which shall deactivate the alarm within 15 minutes. All existing alarm users with an audible bell, horn, or siren must have such deactivation systems Stalled by January 1, 2005, The exception shall be fire alarm systems.
- C. Penalty. Failure to comply with any subsection of § 95-3 shall be punishable by a fine of \$100 for each offense.

§ 95-4. False alarms.

- A. Notice. An alarm user shall be notified by the Police Department in writing after the Police Department has recorded two separate false security alarms from an alarm user within a twelve-month period. An alarm user shall be notified by the Fire Department in writing after the Fire Department has recorded two separate false fire or medical alarms from an alarm user within a twelve-month period. The Police Chief, or his or her designee, shall notify the alarm user, in writing, of such facts, including the dates and times of each alleged false alarm. After three separate false alarms, the Police Chief or designee will again notify the alarm user, in writing, of such facts. The Fire Chief, or his or her designee, shall notify the alarm user, in writing, of such facts, including the dates and times of each alleged false alarm. After three separate false alarms, the Fire Chief or designee will again notify the alarm user, in writing, of such facts.
- B. Testing. All users must notify the Police Department for security alarm systems, and the Fire Department for fire and medical alarm systems in advance of any testing equipment. Failure to notify the Police or Fire Department in advance of testing shall constitute a false alarm and be subject to the assessment schedule contained herein.
- C. Penalties. An alarm user whose alarm system transmits or otherwise causes more than three false alarms in a twelve-month period shall be assessed a penalty of \$50 for the fourth false alarm in any twelve-month period; and a \$100 penalty for each subsequent false alarm.

- D. A security alarm user, or authorized key-holder is required to respond to all security alarm calls, unless a verified cancellation is received before the arrival of the police. The police will accept these verified cancellations from the owner, key-holder or monitoring company, before the arrival of the Police patrol unit(s). No fine will be charged for such cancellation. An alarm user, or authorized key-holder is required to respond to all fire alarm calls.

§ 95-5. Monitoring procedures.

- A. An alarm business performing monitoring/central station services for security systems shall:
- (1) Not request dispatch for police response during the first week after installation of an alarm system, but rather use that week to train the alarm user on proper use of the alarm system, unless extenuating circumstances necessitate immediate requests for response as determined by the Administrator.
 - (2) Report alarm signals by using telephone numbers designated by the Alarm Coordinator;
 - (3) Attempt to verify every alarm signal, except a duress or hold-up alarm activation before requesting a police response to an alarm signal;
 - (4) Communicate alarm dispatch requests to the Southborough police in a manner and form determined by the Alarm Coordinator;
 - (5) Communicate verified cancellations of alarm dispatch requests to the police in a manner and form determined by the Alarm Coordinator;
 - (6) Ensure that all alarm users of alarm systems equipped with duress/panic alarm are given adequate training as to their proper use;
 - (7) No alarm calls received shall be reported by monitoring/central stations via 9-1-1.
- B. An alarm business performing monitoring/central station services for fire alarm systems shall:
- (1) Meet all applicable requirements of Underwriters Laboratory and the National Fire Protection Association Standards for Fire Alarm monitoring stations.
 - (2) Report all fire alarms to Southborough Fire (508) 485-3232.
 - (3) Report all security alarms to Southborough Police at (508) 485-2121.

§ 95-6. Noncriminal enforcement.

This bylaw shall be subject to the provisions of MGL c. 40, § 21D for noncriminal enforcement. All fines shall be made payable to the Town Treasurer for deposit in the General Fund.

§ 95-7. Limitation of liability.

Notwithstanding the provisions of this bylaw, the Town, its departments, officers, agents, and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any alarm system or of alarm monitoring facilities. No liability whatsoever is assumed for the failure of such alarm devices for monitoring facilities or for failure to respond to alarms or for any other act or omission in connection with such alarm devices. Each alarm user shall be deemed to hold and save harmless the Town, its departments, officers, agents and employees from liability in connection with the alarm user's alarm device.

§ 95-8. Severability.

If any provision of this bylaw is found or determined by a court of competent jurisdiction to be unenforceable for any reason, then it is the intent that the remaining provisions continue in full force and effect.

Chapter 96**FIRE DEPARTMENT****GENERAL REFERENCES**

Property maintenance — See Ch. 136.

ARTICLE I

**Pumping of Water From Private Buildings
[Adopted 4-10-2012 ATM by Art. 22]****§ 96-1. Authority of Fire Chief.**

The Fire Chief, in his or her sole discretion, and pursuant to general authority of MGL c. 48, § 42, for public health, safety or welfare purposes may utilize Fire Department personnel, apparatus, or other resources of the Department to effectuate the removal of water from within private buildings, caused by flooding, by pumping or other means, at the written request of the property owner or tenant in public emergency situations.

§ 96-2. Assessment of fee.

The property owner or tenant may be assessed a fee for such service as rendered to any private building if, in the sole determination of the Fire Chief or his or her authorized designee, the water flooding condition could have been avoided or abated by the owner or tenant by remedial action, including the installation of sump pumps or other pumping devices.

§ 96-3. Fee schedule.

- A. First response: no fee assessed.
- B. Second response: fifty-dollar fee.
- C. Third and subsequent response: one-hundred-dollar fee.

§ 96-4. Creation of documents.

The Fire Chief may create forms, applications and other documents to be utilized and executed prior to any Fire Department service being furnished as specified herein.

§ 96-5. Enforcement of fees as assessed.

The Fire Chief shall have the full authority to pursue any civil action or judicial remedy available as to enforcement of fees assessed, but which remain unpaid.

- A. First call: No charge.
- B. Second call: \$50.
- C. Third and subsequent calls: \$100.

Chapter 103

GAS INSTALLATIONS

§ 103-1. Adoption of standards by reference.

The Town has accepted as a code for the installation of gas appliances and gas piping within the Town of Southborough the Massachusetts Code for Installation of Gas Appliances and Gas Piping, as established under Chapter 737 of the Acts of 1960, effective November 26, 1962,⁸ as promulgated and adopted by the Massachusetts Gas Regulatory Board, together with all amendments and addenda which are a part thereof.

Chapter 110

HUNTING

GENERAL REFERENCES

Dogs and other animals — See Ch. 81.

§ 110-1. Permission required.

No person shall be allowed to hunt on public or private property, except by written permission of the owner of the private or public property, and such person shall have in his possession such written permission at the time of hunting.

§ 110-2. Posting of signs.

The Board of Selectmen, as authorized by the landowners, shall post "No Hunting" signs and shall give further notifications as it deems necessary.

§ 110-3. Violations and penalties.

Whoever violates any provisions of this chapter shall be punished by a fine of not more than \$50.

Chapter 117

LOITERING

GENERAL REFERENCES

Sex offenders — See Ch. 118.

Pedestrian regulations — See Ch. 195.

Streets and sidewalks — See Ch. 152.

8. Editor's Note: See MGL c. 143, §§ 3N and 3O.

§ 117-1. Conduct prohibited.

No person shall loiter or continue to stand on any sidewalk or public place in the Town so as to obstruct the passage of or to impede or in any manner annoy other persons; nor shall any person in a street or way stand or loiter after being directed by a police officer to move on.

Chapter 118**REGISTERED SEX OFFENDER RESTRICTIONS****GENERAL REFERENCES**

Loitering — See Ch. 117.

Peace and good order — See Ch. 131.

§ 118-1. Determinations and intent.

- A. It is the intent of this bylaw to protect the Town's compelling interest to promote and protect the public health, safety and welfare of the inhabitants of the Town of Southborough by creating areas around locales where children, the elderly and mentally retarded regularly congregate and wherein certain sex offenders are prohibited from loitering and establishing temporary or permanent residence.
- B. It is determined that this bylaw is the most narrowly crafted means of restricting to the fullest extent possible the opportunity for registered sex offenders to approach or interact with children, the elderly and the mentally retarded where such persons routinely and naturally congregate and that the protections of the health and safety of our children, elderly, and mentally retarded is a compelling public and governmental interest.
- C. This bylaw is intended to create a civil nonpunitive regulatory scheme in order to protect children, the elderly, and the mentally retarded to the greatest extent possible under the circumstances of public welfare protections and not as a punitive measure of any kind.
- D. Registered sex offenders pose a clear threat to the children, the elderly, and the mentally retarded as vulnerable groups residing in or visiting the Town, because registered sex offenders are more likely than any other type of offender to re-offend for another sexual offense, the Town desires to impose safety precautions in furthering the public purpose of protecting the children, elderly and mentally retarded. The purpose of this bylaw is to mitigate the potential risk of harm to children, the elderly and the mentally retarded of the Southborough Community by deterring the ability for registered sex offenders to be in contact with unsuspecting children, the elderly, and mentally retarded in locations

that are primary utilized by such children, the elderly or mentally retarded, that is the grounds of public and private schools for children, centers or facilities that provide day care or children's services, parks, other recreational facilities, elderly housing facilities or facilities for the mentally retarded. The Town desires to add location restrictions to such offenders where state law is silent.

§ 118-2. Definitions.

The following words, terms, and phrases when utilized in this chapter shall have the meanings ascribed to them in this section, except where the context clearly described a different meaning:

1. "Registered Sex Offender" for the purposes of this chapter shall mean:
(a) any person who is designated as a sexually violent predator pursuant to Chapter 6, § 178C, of the Massachusetts General Laws and who is required to register as a sex offender pursuant to the guidelines of the Sex Offender Registry Board; (b) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C, of the Massachusetts General Laws and who is finally classified as a Level 3 offender pursuant to the guidelines of the Sex Offender Registry; and (c) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C, of the Massachusetts General Laws, who is finally classified as a Level 2 offender pursuant to the guidelines of the Sex Offender Registry and who has committed a sex offense against a child, an elder, and/or a mentally retarded person.
2. "Sex Offender" and "Sex offense" shall have the same meaning as provided for in MGL c. 6, § 178C.
3. "Child" or "Children" shall mean persons under 18 years of age.
4. "Elder" or "Elderly" shall mean persons over 60 years of age.
5. "Mentally Retarded person" shall mean, pursuant to MGL c. 123B, § 1, a person who, as a result of inadequately developed or impaired intelligence, as determined by clinical authorities as described in the regulations of the Department of Mental Retardation, is substantially limited in his or her ability to learn or adapt, as judged by established standards available for the evaluation of a person's ability to function in the community.
6. "Park" -- Any public land designated for active or passive recreational or athletic use by the Town of Southborough, the Commonwealth of Massachusetts or other governmental subdivision, and located within the Town of Southborough.
7. "School" -- Any public or private educational facility that provides services to children in grades Kindergarten through 12.

8. "School Bus Stop" -- Any area designated by the public school district or by a private or parochial school within the Town of Southborough as a school bus stop.
9. "Recreational facility" includes, but is not limited to, a playground, a forest preserve, conservation area, jogging trail or running track, hiking trail, beach, wading pool, soccer field, baseball field, football field, basketball court or hockey rink, dance or gymnastic studio, or whether publicly or privately owned, to which the public has a right of access as an invitee and which is located within the Town of Southborough.
10. "Day-Care Center" -- Any establishment, whether public or private which provides care for children and is registered with and licensed pursuant to the applicable laws of the Commonwealth of Massachusetts by the Office of Child Care Services.
11. "Elderly housing facility" -- A building or buildings on the same lot containing four or more dwelling units restricted to occupancy by households having one or more members 55 years of age or older.
12. "Permanent Residence" -- A place where a person lives, abides, lodges, or resides for 14 or more consecutive days.
13. "Temporary Residence" -- A place where a person lives, abides, lodges, or resides for a period of less than 14 consecutive days or 14 days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person's permanent residence; but "temporary residence" shall not include residence at a hospital or other health care or medical facility for less than 14 consecutive days or 14 days in the aggregate during any calendar year.
14. "Establishing a Residence" -- To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

§ 118-3. Sexual offender residence prohibition, restrictions, penalties.

- A. Prohibition. A registered sex offender is prohibited from establishing a permanent residence or temporary residence within 1,000 feet of any school, day-care center, park, other recreational facility, or elderly housing facility.
- B. It is unlawful for any sex offender who is finally classified as a Level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board to establish a permanent residence within 1,000 feet of any school, day-care center, park, or elderly housing facility.

- C. Evidentiary matters measurements. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest outer property line of any school, day-care center, park, recreational facility, elderly housing facility.
- D. Exceptions. A registered sex offender residing within 1,000 feet of any school, day-care center, park, recreational facility, or elderly housing facility does not commit a violation of this section if any of the following apply:
 - (1) The registered sex offender established the permanent residence prior to the effective date of this bylaw; and:
 - (a) Permanent residence was established by purchasing the real property where the residence is established, as long as the registered sex offender continues to reside in, and does not move to another restricted location in Southborough different from, the permanent residence established prior to the effective date of this bylaw; or
 - (b) Permanent residence was established through a valid arm's length, fixed-term, written lease or rental agreement, executed prior to the effective date of this ordinance, as long as the registered sex offender continues to reside within, and does not move to another restricted location in Southborough different from, the permanent residence established prior to the effective date of this bylaw; or
 - (c) Permanent residence was established through a verbal lease or rental agreement at the will of the landlord, as long as the registered sex offender continues to reside within, and does not move to another restricted location in Southborough different from, the permanent residence established prior to the effective date of this bylaw.
 - (2) The registered sex offender is a minor living with his or her parent(s) or legal guardian(s), which parent(s) or legal guardian(s) has (have) established a permanent residence pursuant to § 118-3.
 - (3) The school, day-care center, park, recreational facility, or elderly housing facility within 1,000 feet of the registered sex offender's permanent residence was opened after the registered sex offender established the permanent residence.
- E. Forfeiture of exception. If, either after the effective date of this bylaw or after a new school, day-care center, park, recreational facility, or elderly housing facility opens, a complaint or an indictment is issued by a court against a registered sex offender otherwise enjoying an exception under Subsection D and judgment enters that such sex offender has

committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this section.

- F. Notice to move. A registered sex offender who resides on a permanent or temporary basis within 1,000 feet of any school, day-care center, park, recreational facility, or elderly housing facility shall be in violation of this section and shall, within 30 days of receipt of written notice of the registered sex offender's noncompliance with the chapter, move from said location to a new location, but said location may not be within 1,000 feet of any school, day-care center, park, recreational facility, or elderly housing facility. It shall constitute a separate violation for each day beyond the 30 days the registered sex offender continues to reside within 1,000 feet of any school, day-care center, park, recreational facility, or elderly housing facility. Furthermore, it shall be a violation each day that a registered sex offender shall move from one location in the Town to another that is within 1,000 feet of any school, day-care center, park, recreational facility, and elderly housing facility.

G. Penalties.

- (1) Any violation of this section shall be enforced by noncriminal disposition pursuant to MGL c. 40, § 21D, as follows:
 - (a) First offense by registered sex offender: noncriminal fine of \$150 and notification to offender that he/she has 30 days to move.
 - (b) Subsequent offense by registered sex offender: noncriminal fine of \$300 and notification to offender's parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the sex offender has violated Town's bylaw.
- (2) For purposes of this section, notice shall be deemed to be sufficient and proper if the person service by registered mail, return receipt requested, or receives in hand service or service by a Constable, Sheriff or other person authorized to serve civil process within the Commonwealth of Massachusetts or other service as a court of competent jurisdiction may allow.

§ 118-4. Additional exceptions.

A person residing within 1,000 feet of any school, day-care center, park, elderly housing facility or recreational facility does not commit a violation of this section if any of the following apply:

- A. The person established the permanent residence and reported and registered the residence prior to April 15, 2008.
- B. The person was a minor when he/she committed the offense and was not convicted as an adult.

- C. The school, day-care center, park, or elderly housing facility within 1,000 feet of the permanent residence was established after the person established the permanent residence and reported and registered the residence pursuant to the Sex Offender Registry Law.
- D. The person is incarcerated in any facility owned, maintained and/or operated by the Town of Southborough.
- E. The person is admitted to and or subject to an order of commitment at a public or private facility for the care and treatment of mentally retarded persons pursuant to MGL c. 123B.
- F. The person is a mentally retarded person subject to guardianship pursuant to MGL c. 201, § 6,⁹ or a mentally retarded person subject to guardianship pursuant to MGL c. 201, § 6A,¹⁰ residing with his or her guardian or residing within a group residence that is professionally staffed and supervised 24 hours a day.¹¹

§ 118-5. Safety zones.

A. Prohibitions.

- (1) A registered sex offender is prohibited from entering upon the premises of a school or day-care center unless previously authorized specifically in writing by the school administration or day-care center owner.
- (2) A registered sex offender is prohibited from entering upon the premises of an elderly housing facility unless previously authorized in writing by the on-site manager of the elderly housing facility.
- (3) A registered sex offender is prohibited from entering upon the premises of a park or any recreational facility.

B. Exceptions.

- (1) The prohibitions defined shall not be construed or enforced so as to prohibit a registered sex offender from exercising his or her right to vote in any federal, state or municipal election, or from attending any religious service.
- (2) The prohibitions defined do not apply to a registered sex offender's place of residence when such residence is excepted under § 118-3D and § 118-4.

C. Penalties. Any violation of this section may be enforced by noncriminal disposition pursuant to MGL c. 40, § 21D, resulting in: (1) a noncriminal fine of \$150 for a first violation; and (2) a noncriminal fine of \$300

9. Editor's Note: See now MGL c. 190B, §§ 5-301, 5-303, 5-306, 5-306A and 5-309.

10. Editor's Note: See now MGL c. 190B, §§ 5-209, 5-303 and 5-404.

11. Editor's Note: Former MGL c. 201, Guardians and Conservators, was repealed in 2008. See now MGL c. 190B, the Massachusetts Uniform Probate Code.

for each additional violation of this section. A registered sex offender commits a separate offense for each and every violation of this section.

§ 118-6. Enforcement.

- A. The Southborough Police Department shall be charged and empowered with the enforcement of this chapter.
- B. A written list describing the prohibited areas defined in this bylaw inclusive of school bus stops, as well as a map depicting the residency restriction areas and a map depicting the safety zones exclusive of school bus stops, shall be created by the Town and maintained by the Southborough Department of Public Works. As to school bus stops, the list, and not the map depicting the safety zones, shall govern. The Town shall review both the list and the maps no less than annually for changes. The list, the maps and a copy of this bylaw will be available to the public at the Southborough Police Department and Southborough Clerk's office, and on the Town of Southborough website.

§ 118-7. Severability.

If any clause, sentence, paragraph, subdivision, section or other part of this bylaw shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect, impair or invalidate the remainder of this bylaw, and it shall be construed to have been the legislative intent to enact this bylaw without such unconstitutional or invalid parts therein.

Chapter 124

NUMBERING OF PROPERTY

GENERAL REFERENCES

Building construction — See Ch. 62.

Subdivision regulations — See Ch. 244.

Zoning — See Ch. 174.

§ 124-1. Required number assignment and display.

No new building erected on any street or way, public or private, shall be given any occupancy permit until said building shall have been assigned a house or building number by the Board of Assessors and the owner or other occupant thereof has affixed the same to the building in a conspicuous manner.

§ 124-2. Placement of numbers. [Added 4-8-1985 ATM by Art. 50]

If, by placing the number on the house, the number is not easily read from the street, then the number must be placed on a stake or similar structure near the street at the edge of the driveway leading to the house.

§ 124-3. Enforcement. [Added 4-8-1985 ATM by Art. 50]

This chapter shall be enforced by the Fire Chief.

Chapter 127**PARADES****GENERAL REFERENCES**

Peace and good order — See Ch. 131.

Pedestrian regulations — See Ch. 195.

Streets and sidewalks — See Ch. 152.

Vehicle regulations — See Ch. 207.

§ 127-1. Permit required.

No person shall form or conduct any parade in any public street, public sidewalk or public way within the Town, or any procession, except a military or funeral parade or procession, within such public street, sidewalk or way without first obtaining a written permit from the Selectmen.

Chapter 131**PEACE AND GOOD ORDER****GENERAL REFERENCES**

Sex offenders — See Ch. 118.

Peddlers and solicitors — See Ch. 133.

Parades — See Ch. 127.

§ 131-1. Prohibited behavior.

No person shall conduct himself in an indecent and disorderly manner, nor use profane, indecent, obscene or insulting language in any public way or place or near any dwelling house, nor commit any wanton or willful act on or about the premises of any person, with intent to annoy or disturb any inhabitant.

Chapter 133**PEDDLERS AND SOLICITORS****GENERAL REFERENCES**

Parades — See Ch. 127.

Peace and good order — See Ch. 131.

§ 133-1. Hours of activities.

No individual or individuals, group or organization shall solicit door-to-door on the private property of another between 1/2 hour after sunset and 7:00 a.m. in the Town of Southborough.

§ 133-2. Registration with Police Department required.

Solicitors intending to work between 7:00 a.m. and 1/2 hour after sunset are asked to register with the Police Department the name or names of individual solicitors and the make, model, color and registration number of vehicles being used in connection with the solicitation.

Chapter 136**PROPERTY MAINTENANCE****GENERAL REFERENCES**

Building construction — See Ch. 62.

Subdivision regulations — See Ch. 244.

Earth removal — See Ch. 85.

§ 136-1. Covering of wells; penalties.

- A. The owners of land whereon is located an abandoned well or a well in use shall provide a covering for such well capable of sustaining a weight of 300 pounds or shall fill the same to the level of the ground.
- B. The penalty for violation of this section shall be a fine of not less than \$100 nor more than \$500.

§ 136-2. Barriers around excavations.

- A. The Board of Selectmen may require owners of land which has been excavated to erect barriers to take other suitable measures within two days after such owner has been notified in writing by the Selectmen of the Town that, in their opinion, such excavation involves and constitutes a hazard to public safety.

- B. The penalty for violation of this section shall be a fine not to exceed \$100 per day for every day such person is in violation of such notice, commencing with the fourth day thereof.

Chapter 143

SECONDHAND SALES

GENERAL REFERENCES

Peddlers and solicitors — See Ch. 133.

§ 143-1. Regulations in addition to statute.

All persons or parties granted licenses by the Board of Selectmen in accordance with MGL c. 140, §§ 54 and 202, regarding dealers in junk, old metals and secondhand articles, junk collectors and pawnbrokers, shall, in addition to the restrictions and requirements of said statute, be subject to the additional following regulations.

§ 143-2. License fee.

The fee for said license shall be \$50 per annum.

§ 143-3. Information to be obtained.

Every licensee shall keep a permanent bound book (pages not removable) in which shall be written, at the time of receipt, the following information:

- A. Day and hour of receipt of goods or articles.
- B. Specific physical description of goods or articles, including color, weight, size, markings, etc.
- C. Name, address, age and driver's license number of person who presents goods or articles. (In case of no license, then suitable pictured identification will be required.)

§ 143-4. Age restrictions.

No licensee shall, directly or indirectly, receive any goods or articles from a minor, and the responsibility for such determination of the person's age shall be on the licensee.

§ 143-5. Articles to be retained.

Every licensee shall retain on the licensed premises all goods and articles received for a specific period of time in accordance with the following schedule:

- A. Secondhand articles and junk: 14 days.
- B. Old metals, precious metals, precious stones or jewelry, silver and gold: seven days.
- C. Those articles listed in Subsection B above in those instances where the Board or designees is satisfied as to the appropriate origin or source of said goods and articles: four days.

§ 143-6. One address per license; license to be displayed.

Each license shall be effective at only one address, and said license shall be conspicuously displayed at that address.

§ 143-7. Records to be open for inspection.

All books, records, goods and articles received, held or maintained by every licensee shall be available for inspection at all times (and without prior notice) by the Board or designees.

§ 143-8. Bond required; grievances.

Every new licensee, except those who have held a similar license from the Town for the immediate previous twelve-month period, shall furnish to the Board a bond in such sum as the Board may require, executed by the licensee and by a surety company authorized to do business within the commonwealth. Said bond shall be payable to the Town, for the benefit of any person aggrieved, and shall be conditioned upon the faithful observation of the licensee of all applicable statutes, rules and regulations. Any person so aggrieved may bring suit on the Board in his own name; provided, however, that the aggregate liability of the surety to all such persons shall in no event exceed the sum of such bond.

§ 143-9. License to include rules and regulations.

These rules and regulations shall be incorporated into every license granted hereunder.

§ 143-10. Revocation of license.

The Board may revoke the license of any dealer who violates or fails to uphold these regulations.

Chapter 152

STREETS AND SIDEWALKS

GENERAL REFERENCES

Loitering — See Ch. 117.

Abandoned vehicles — See Ch. 163.

Parades — See Ch. 127.

Pedestrian regulations — See Ch. 195.

Peace and good order — See Ch. 131.

Vehicles and traffic — See Ch. 207.

ARTICLE I

Miscellaneous Provisions**[Adopted as Art. IX, Secs. 1 through 5, of the 1983 Code]****§ 152-1. Supervision of streets and sidewalks.**

The streets and highways of the Town shall be under the direct supervision of the Superintendent of Streets appointed by the Board of Selectmen.

§ 152-2. Records to be kept.

The Superintendent of Streets shall keep an accurate account of all money expended and all work done upon the public ways of the Town and a daily record of the number of men and teams employed, together with the time on such work.

§ 152-3. Required reports.

The Superintendent of Streets shall, under the direction of the Selectmen, cooperate with the State Department of Public Works¹² and the County Commissioners and keep a true and accurate account of all work done under the authority of Chapters 81 and 90 of the General Laws as they apply to the Town and report his doings to the Selectmen whenever he may be required to do so; and he shall also furnish an annual report to the Selectmen of his doings, together with recommendations for the ensuing year.

**§ 152-4. Excavation permit required; safety requirements.
[Amended 4-10-2000 ATM by Art. 50]**

No person shall break or dig up any public sidewalk, street or highway, or place thereon any staging or other temporary structure, without first having obtained a written permit approved by the Board of Selectmen or its designee, or other board having charge of the streets, so to do. Any person having such a permit shall, before the expiration of the same, restore such sidewalk, street or highway to its original condition or to a condition satisfactory to such Board. Any permit issued under the provisions of this section shall be in force for such time as the Board may specify and shall always be subject to the condition that during the whole of every night, from sunset to sunrise, lighted lanterns and proper barriers shall be so placed as to secure travelers from danger. No person having obtained such a permit shall fail to comply with the conditions thereof. The Board granting such permit shall have the right to revoke the same at any time and may require a bond, either before or after the commencement of work or during its progress, to secure its proper performance and to save the Town harmless from all claims for damages which may result therefrom.

12. Editor's Note: Now the Department of Transportation.

§ 152-5. Curb cut permit required; restoration; bond.

No person shall construct a driveway curb cut or roadway curb cut within a Town way without first having obtained a written permit from the Highway Superintendent. Any person having such permit shall, before the expiration of the same, restore such way, including any sidewalk or grassed area, to a condition satisfactory to the Highway Superintendent. Any permit issued under the provisions of this section shall be in force for such time as the Highway Superintendent may specify. No person having obtained such a permit shall fail to comply with the conditions thereof. The Highway Superintendent shall have the right to revoke the same at any time and may require a bond, either before or after the commencement of work or during its progress, to secure its proper performance and to save the Town harmless from all claims for damages which may result therefrom. The Highway Superintendent may establish rules and regulations governing said activity.

§ 152-6. Removal of vehicles for snowplowing.

The Superintendent of Streets, or other officer having charge of the ways, shall be authorized, for the purpose of removing or plowing snow or of removing ice from any way, to remove or cause to be removed to some convenient place, including in such term any public garage, any vehicle interfering with such work, and the liability for the cost of such removal and the storage charges, if any, resulting therefrom shall be upon the owner of such vehicle.

ARTICLE II

Conduct**[Adopted as Art. X, Secs. 3 and 4, of the 1983 Code]****§ 152-7. Coasting upon sidewalks.**

No person shall coast on or across any public sidewalk or street of the Town, except at such times and in such place as may, from time to time, be designated by the Board of Selectmen.

§ 152-8. Debris on public ways.

No person shall throw or place or cause to be thrown or placed upon any public street or public way of the Town any nails, spikes, screws, glass, tin cans or refuse of any kind.

§ 152-9. Placing of snow on public ways. [Added 4-13-1987 ATM by Art. 56]

- A. No person shall displace snow from privately owned land to a public way or public sidewalk or so as to impede the operation of any fire hydrant.
- B. Whoever violates this section shall be liable to a penalty of not less than \$50 nor more than \$200 for each such violation.

Chapter 155

SWIMMING POOLS

GENERAL REFERENCES

Building construction — See Ch. 62.

Zoning — See Ch. 174.

§ 155-1. Permit required.

No swimming pool or appurtenance thereto shall be constructed, installed, enlarged or altered until a permit has been obtained from the Building Department.

§ 155-2. Enclosures required.

- A. All outside or open-air wading or swimming pools, in existence or to be constructed or installed, shall be enclosed and made safe by the erection of a fence, wall or other suitable barrier; said fence and/or other type of enclosure shall be a minimum of four feet in height and otherwise meet with the approval of the Building Inspector.
- B. Pools built totally aboveground whose height would form a natural barrier shall have removable stairs and shall not be left unattended with these stairs in position.

§ 155-3. Exceptions.

Artificial and man-made ponds and portable wading pools less than 24 inches deep and having a surface area of less than 250 square feet are exempt from the terms and conditions of this chapter.

§ 155-4. Enclosures around existing pools.

The owner or owners of land on which a wading or swimming pool is now in existence shall erect an enclosure as aforesaid within 90 days from the date on which this chapter takes effect.

§ 155-5. Violations and penalties.

The owner or owners of land on which a wading or swimming pool is constructed, installed or in existence, who fails to comply with the requirements of this chapter, shall be punished by a fine of \$20 and an additional fine of \$5 per week for each week the conditions of this chapter are not complied with.

§ 155-6. Petitions for exceptions.

The Board of Selectmen may, on petitions, after public notice and hearing, grant exceptions to the provisions of this chapter in cases where the Board

finds that said exceptions will not be injurious to the neighborhood or otherwise not detrimental to the public welfare.

Chapter 160

TOXIC AND HAZARDOUS MATERIALS

GENERAL REFERENCES

Gas installations — See Ch. 160.

Zoning — See Ch. 174.

§ 160-1. Purpose; authority.

This chapter is intended to protect the ground and surface waters of the Town from contamination, and to protect the public health and welfare. It is adopted under the authority of MGL c. 43B, § 13, the Home Rule Procedures Act.

§ 160-2. Storage requirements.

The requirements of 527 CMR 9.00 Board of Fire Prevention Regulations for Tanks and Containers, as adopted January 9, 1986,¹³ shall be complied with for the design, location, and testing of all storage facilities containing 55 gallons or more of toxic or hazardous materials, regardless of whether flammable or not, unless, in cases not under jurisdiction of the Fire Chief, specific departure is authorized by the Board of Health upon its written determination, following consultation with the Conservation Commission and Selectmen, that the nature of the materials being stored makes such departure appropriate, and will result in no compromise in the protection of ground and surface waters.

§ 160-3. Definitions.

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

TOXIC OR HAZARDOUS MATERIALS — Substances listed on the Massachusetts Substance List contained in 105 CMR 670.000, Appendix A, substances regulated as hazardous wastes under MGL c. 21C, as amended, and regulated substances defined under Subtitle 1, Section 9001 of the Resource Conservation and Recovery Act, as amended.

§ 160-4. Responsibility for storage.

Where storage is not subject to control under 527 CMR 9.00 Board of Fire Prevention Regulations for Tanks and Containers,¹⁴ responsibilities

13. Editor's Note: See now the Massachusetts Comprehensive Fire Safety Code, 527 CMR 1.00, which adopts by reference the provisions of National Fire Protection Association NFPA 1, 2012 Edition, as modified by 527 CMR 1.05.

assigned in that regulation to the head of the Fire Department shall be assumed by the Board of Health.

§ 160-5. Required notice.

All persons applying for a permit or permit renewal under 527 CMR 9.00 Board of Fire Prevention Regulations for Tanks and Containers¹⁵ shall furnish a duplicate copy of the application and plot plan to the Board of Health, and the head of the Fire Department shall furnish to the Board of Health copies of all permits granted.

§ 160-6. Violations and penalties.

Any person who violates any provision of this chapter shall be punished by a fine of not more than \$100, with each day during which a violation continues being a separate offense. Upon request by the Board of Health or on their own initiative, the Board of Selectmen shall take such legal action as is necessary to enforce this chapter.

Chapter 162

WATER

GENERAL REFERENCES

Swimming pools — See Ch. 155.

Water supply — See Ch. 228.

14. Editor's Note: See now the Massachusetts Comprehensive Fire Safety Code, 527 CMR 1.00, which adopts by reference the provisions of National Fire Protection Association NFPA 1, 2012 Edition, as modified by 527 CMR 1.05.

15. Editor's Note: See now the Massachusetts Comprehensive Fire Safety Code, 527 CMR 1.00, which adopts by reference the provisions of National Fire Protection Association NFPA 1, 2012 Edition, as modified by 527 CMR 1.05.

ARTICLE I

Water Emergencies**[Adopted 4-10-2000 ATM by Art. 21]****§ 162-1. Procedure for establishing water emergencies.**

The Board of Selectmen shall be authorized to establish water emergencies as may be necessary to conserve the supply of water and to insure the safe and efficient operation of the water system. During such emergencies outside use of water drawn from the Town's water system shall be prohibited for such purposes as irrigation of lawns, gardens, shrubs and trees, washing of vehicles, recreational use and other use as the Board of Selectmen may deem appropriate.

§ 162-2. Violations and penalties.

Fines for violation of the water emergency use prohibitions shall be \$50 for the first offense and \$100 for subsequent offenses.

Chapter 163

VEHICLES, ABANDONED

GENERAL REFERENCES

Vehicle operation — See Ch. 165.

Vehicle and traffic regulations — See Ch. 207.

§ 163-1. Definitions.

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

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY — Any real property within the Town which is not a street or highway.

STREET OR HIGHWAY — The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

VEHICLE — A machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides, to transport persons or property or pull machinery, and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

§ 163-2. Abandonment prohibited.

Except as to vehicles for which other provisions are made under the laws of the Commonwealth of Massachusetts, no person shall abandon any vehicle within the Town, and no person shall leave any vehicle at any place within the Town for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

§ 163-3. Leaving nonoperating and junked vehicles on streets.

Except as to vehicles for which other provisions are made under the laws of the Commonwealth of Massachusetts, no person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway within the Town.

§ 163-4. Unregistered vehicles on private property.

No person shall permit more than one unregistered motor vehicle or trailer or major parts thereof, except for farm vehicles, to remain ungaraged on his premises at any time, unless under a Class 1 or Class 2 license for sale of motor vehicles (MGL c. 140, §§ 57 through 69), or unless given written authorization by the Selectmen following an investigation and report

thereon by the Board of Health. Authorization shall be granted only if no hazard to health or safety is involved and no unsightly condition visible from adjacent property or public ways is created.

§ 163-5. Disposition of wrecked or discarded vehicles.

No person in charge or control of any property within the Town, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, inoperative, wrecked, junked or discarded vehicle to remain on such property longer than 10 days, and no person shall leave any such vehicle on any property within the Town for a longer time than 10 days, except a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town. This section shall not apply to Class 3 licenses under MGL c. 140, § 58.

§ 163-6. Violations and penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding \$50. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

§ 163-7. Severability.

If any section is held to be invalid, it shall not affect any other section of this chapter.

Chapter 165

VEHICLES, OPERATION OF

GENERAL REFERENCES

Abandoned vehicles — See Ch. 163.

Vehicle and traffic regulations — See Ch. 207.

Pedestrian regulations — See Ch. 195.

§ 165-1. Definitions.

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

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC PROPERTY — Any real property within the Town, which property is owned by the Town and which is under the administrative control of the Recreation Commission, Conservation Commission or School Committee and which is not a street, highway, paved driveway or paved parking area.

VEHICLE — A machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides, to transport persons or property or pull machinery, and shall include, without limitation, automobile, truck, trailer, motorcycle trail bike, moped, tractor, buggy, wagon or snowmobile.

§ 165-2. Operation on public property.

No person shall permit any vehicle in his control or charge to be driven upon any public property in the Town of Southborough, except with the express permission of the Board of Selectmen and except for ordinary maintenance of said property by authorized parties.

§ 165-3. Violations and penalties.

Any person violating any section of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined in any amount not exceeding \$200. Each violation shall constitute a separate offense and shall be punished as such hereunder.

§ 165-4. Severability.

If any section of this chapter is held to be invalid, it shall not affect the other sections of this chapter.

Chapter 170

WETLANDS PROTECTION

GENERAL REFERENCES

Building construction — See Ch. 62.

Water supply — See Ch. 228.

Earth removal — See Ch. 85.

Subdivision of land — See Ch. 244.

Zoning — See Ch. 174.

§ 170-1. Purpose.

The purpose of this chapter is to protect the wetland-related water resources and the adjoining land areas in the Town of Southborough by controlling activities deemed by the Southborough Conservation Commission to have a significant or cumulative effect upon wetland values: public or private water supply, flood control, groundwater supply, storm damage prevention, erosion and sedimentation control, wildlife habitat,

water pollution control, fisheries and freshwater shellfish, and recreation (collectively "the wetland values protected by this chapter").

§ 170-2. Jurisdiction.

Except as permitted by the Conservation Commission or as provided in this chapter, no person shall remove, fill, dredge, build upon, degrade, discharge into or otherwise alter the following resource areas or within 20 feet of their borders: any freshwater wetland, bordering vegetated wetland, marsh, wet meadow, bog or swamp, any bank, beach, lake, river, pond, stream or any land under said waters, any vernal pool, any land subject to flooding or inundation by groundwater, surface water or storm flowage (collectively, "the resource areas"). Any proposed work which falls within 100 feet (the "buffer zone") of the previously mentioned resource areas must be approved by the Conservation Commission.

§ 170-3. Definitions.

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

ABUTTER — The same as owner of land abutting the activity.

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

- (1) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind.
- (2) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood-retention characteristics.
- (3) Drainage or other disturbance of water level or water table.
- (4) Dumping, discharging or filling with any material which may degrade water quality.
- (5) Placing of fill or removal of material which would alter elevation.
- (6) Driving of piles, erection, alteration, replacement or repair of buildings or structures of any kind.
- (7) Placing of obstructions or objects in water.
- (8) Destruction of plant life, including cutting of trees.
- (9) Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water.
- (10) Any activities, changes or other work which pollute any body of water or groundwater.

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

- B. Except as otherwise provided in regulations of the Commission, the definitions of terms in this chapter shall be as set forth in the Wetlands Protection Act, MGL c. 131, § 40.

§ 170-4. Exceptions.

- A. The application and permit required by this chapter shall not be required for maintaining, repairing, replacing, but not enlarging, a lawfully located single-family residential structure or appurtenance thereto, unless said filing is otherwise required by state or federal law.
- B. The application and permit required by this chapter shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, municipal sewage, telephone, telegraph or other telecommunication services, provided that written notice had been given to the Conservation Commission prior to commencement of the work and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- C. The application and permit required by this chapter shall not be required for work performed for normal maintenance or improvement of land in agricultural use, provided that written notice has been given to the Conservation Commission prior to commencement of the work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- D. The application and permit required by this chapter shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that:
- (1) The work is to be performed by or has been ordered to be performed by an agency of the commonwealth or a political subdivision thereof.
 - (2) Advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement.
 - (3) The Conservation Commission or its agent certifies the work as an emergency project.

- (4) The work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency.
- (5) Within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this chapter. Upon failure to meet these requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.
- E. The requirements of this chapter shall not apply to any orders of conditions, determinations of applicability or notice of intent filed or issued prior to the adoption of this chapter.
- F. Other than stated in this chapter, the exceptions provided in the Wetlands Protection Act (MGL c. 131, § 40, as amended) shall not apply.

§ 170-5. Applications for permits; requests for determination.

- A. Any person desiring to know whether or not a proposed activity or an area is subject to this chapter may request, in writing, a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations adopted by the Commission.
- B. Written application shall be filed with the Commission to perform activities regulated by this chapter affecting buffer zones and resource areas protected by this chapter. The application shall include eight copies of such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this chapter.
- C. The Commission, in an appropriate case, shall accept as the application and plans under this chapter the notice of intent and plans filed under the Wetlands Protection Act (MGL c. 131, § 40, as amended).
- D. At the time of an application or request for determination, the applicant shall pay a filing fee specified in regulations adopted by the Commission. This fee is in addition to that required by the Wetlands Protection Act (MGL c. 131, § 40, as amended.) In addition, the Commission is authorized to require the applicant to pay reasonable costs and expenses of any expert consultant if deemed necessary by the Commission to review the application or request for determination. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. The Commission may waive the filing fee and costs and expenses for an application or request for determination filed by a government agency.

§ 170-6. Notice; hearing.

- A. Notice. Any person filing a permit application with the Commission, at the same time, shall give written notice thereof, by certified mail (return receipt requested) or hand delivery, to all direct abutters at their mailing addresses shown on the most recent applicable Tax Map of the Assessors. The notice to abutters shall state where copies of the request or application with plans may be examined or obtained. A copy of the notice mailed or delivered and return receipts shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the plans, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request. A person complying with the notice provisions of this chapter shall be deemed to have complied with the notice requirements of the Wetlands Protection Act (MGL c. 131, § 40 as amended).
- B. Hearings.
- (1) The Commission shall commence the public hearing on any application or request for determination, with written notice given at the expense of the applicant five working days prior to the hearing in a newspaper of general circulation in the Town of Southborough.
 - (2) The Commission shall commence the public hearing within 21 days from receipt of a completed application or completed request for determination unless an extension is authorized, in writing, by the applicant.
 - (3) The Commission shall issue its permit or determination, in writing, within 21 days of the close of the public hearing thereon unless an extension is authorized, in writing, by the applicant.
 - (4) The Commission shall combine its hearing under this chapter with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.
 - (5) The Commission shall have authority to continue the hearing to a certain date announced at the hearing or to an unspecified date, for reasons stated at the hearing. The reasons may include:
 - (a) Receipt of additional information offered by the applicant or others.
 - (b) An opportunity for the Commission to conduct an on-site inspection, with or without the applicant of the property.
 - (c) Information and plans required of the applicant, deemed necessary by the Commission in its discretion.
 - (d) Snow cover preventing the ground from being seen and wetland flagging from being verified by the Commission.

- (e) Comments and recommendations of boards and officials listed in § 170-7. In the event that the applicant objects to a continuance or postponement, the hearing shall be closed, and the Commission shall take action on such information as is available.

§ 170-7. Review by other boards and officials.

- A. Any person filing a permit application with the Commission shall provide a copy thereof at the same time, together with the date and time of a scheduled hearing, to the Board of Selectmen, Planning Board, Zoning Board of Appeals, Board of Health, Town Planner and Building Inspector. A copy shall be provided to the Conservation Commission of the adjoining municipality if the permit application pertains to property within 300 feet of that municipality. The applicant shall have the right to receive comments and recommendations from such boards and officials and to respond to them at a hearing of the Commission prior to final action.
- B. Any comments which other boards and officials wish to have brought to the attention of the Commission shall be submitted in writing to the Commission prior to the hearing at which the permit application is to be heard.

§ 170-8. Permit issuance or denial; determinations; conditions.

- A. If the Commission, after a public hearing, determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this chapter, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect these values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this chapter; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performances and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative impacts upon the wetland values protected by this chapter; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

- C. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed for additional one-year periods, provided that a request for renewal is received, in writing, by the Commission prior to expiration.
- D. For good cause the Commission may revoke or modify a permit issued under this chapter after notice to the holder of the permit and notice to the public, abutters and Town boards pursuant to § 170-7 and a public hearing.
- E. The Commission in an appropriate case shall combine the permit or other action on an application issued under this chapter with the order of conditions issued under the Wetlands Protection Act.
- F. No work proposed in any application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected thereby be registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies, in writing, to the Commission that the permit has been so recorded.

§ 170-9. Regulations.

- A. After public notice and public hearing, the Commission shall adopt rules and regulations to effectuate the purposes of this chapter. The rules and regulations adopted under this chapter shall not expand the powers of the Commission beyond the authority granted by this chapter. Failure by the Commission to adopt such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter.
- B. Public notice shall be given at least three weeks prior to such hearing by publication in a newspaper of general circulation in the Town and by posting with the Town Clerk.
- C. At a minimum these regulations shall define key terms in this chapter not inconsistent with this chapter.
- D. Unless otherwise stated in this chapter or in the rules and regulations promulgated under this chapter, the definitions, procedures and performance standards of the Wetlands Protection Act, MGL c. 131, § 40, and associated Wetlands Regulations, 310 CMR 10.00, shall apply.

§ 170-10. Security.

As part of a permit issued under this chapter, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the

conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or other undertaking of financial responsibility sufficient in the opinion of the Commission. This security shall be received by the Commission prior to the commencement of the work and will be released in whole or in part upon issuance of a certificate of compliance for work performed pursuant to the permit.
- 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. This method shall be used only with the consent of the applicant.

§ 170-11. Enforcement.

- A. The Commission, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this chapter and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.
- B. The Commission shall have authority to enforce this chapter, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions. Any person who violates provisions of this chapter may be required to restore the property to its original condition and take other action deemed necessary to remedy such violations or may be fined, or both.
- C. Town boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
- D. Any person who violates any provision of this chapter, regulations thereunder or permits issued thereunder shall be punished by a fine of not more than \$500 as allowed under MGL c. 40, § 21D. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the chapter, regulation or permit violated shall constitute a separate offense.
- E. 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.

§ 170-12. Burden of proof.

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this chapter. Failure to provide adequate

evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

§ 170-13. Appeals.

A decision of the Commission shall be reviewable in the Superior Court in an action filed within 60 days thereof in accordance with MGL c. 249, § 4.

§ 170-14. Statutory authority.

This chapter is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetland Protection Act (MGL c. 131, § 40) and regulations thereunder.

§ 170-15. Severability.

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

Chapter 174

ZONING

GENERAL REFERENCES

Building construction — See Ch. 62.

Swimming pools — See Ch. 155.

Demolition delay — See Ch. 63.

Wetlands protection — See Ch. 170.

Earth removal — See Ch. 85.

Subdivision of land — See Ch. 244.

Property maintenance — See Ch. 136.

Zoning Board of Appeals — See Ch. 249.

ARTICLE I
Miscellaneous Provisions

§ 174-1. Purpose; scope.

- A. This Zoning Chapter of the Town of Southborough, Massachusetts, has been adopted and from time to time amended and recodified under the authority of Chapter 40A and other relevant provisions of the General Laws of Massachusetts for the purpose of protecting and promoting the health, safety, convenience and welfare of the current and future inhabitants of Southborough and for other purposes contained in Section 2A of Chapter 808, Acts of 1975.
- B. This Zoning Chapter divides the Town of Southborough into districts, in which the location, construction, occupancy and use of buildings, structures, premises and land is regulated and restricted as provided hereinafter.

§ 174-2. Definitions.

- A. Unless the context clearly indicates otherwise, the word "shall" is intended to be mandatory, the word "may" is merely permissive, the singular includes the plural, and the present tense includes the future, and other words and phrases have the following meanings.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ABUTTER — One who abuts.**[Added 4-11-1988 STM by Art. 1]**

ABUTTING — Having a common property line with, contiguous to, fronting upon or within 300 feet of any property line thereof.**[Added 4-11-1988 STM by Art. 1]**

ACCESSORY APARTMENT — A subsidiary dwelling unit created within or as an extension to a single-family dwelling or a structure accessory thereto, with separate cooking, sleeping and bathroom facilities.**[Amended 4-30-1990 ATM by Art. 50]**

ACCESSORY BUILDING OR USE — A building, structure or use customarily incidental and subordinate to the principal permitted use of the building or land, located on the same lot as the principal permitted building or use, and not prohibited by this chapter. For the purpose of this chapter, any area on a lot used for the landing and take-off of aircraft, as defined by MGL Chapter 90, Section 35, or helicopters (except as allowed in the Industrial Park District by special permit re: § 174-8.6C) on a regular or intermittent basis shall not be considered an accessory to use and therefore not allowed as an accessory or principal use in any zoning district.**[Amended 4-15-1997 ATM; Art. 53]**

ALTERATIONS, MINIMUM EXTERIOR — External alterations limited to those necessary to comply with applicable building, fire or health

codes and not enlarging the usable area of a building or changing its character.

BASEMENT — That part of a building which is partly below and partly above grade, and having at least 1/2 its height above grade.**[Added 4-13-1987 ATM by Art. 41]**

BUILDING — A structure having a roof and intended or used as a shelter for humans, animals or goods, to be construed as if followed by the words "or any part thereof." Buildings which are touching, structurally connected or attached shall be considered as one "building."

CELLAR — That part of a building which is partly or completely below grade, and having at least 1/2 its height below grade.**[Added 4-13-1987 ATM by Art. 41]**

CUSTOMARY HOME OCCUPATION — The use of a portion, not exceeding 25%, of a one-family home, including the accessory buildings, by persons resident therein for a gainful occupation that is clearly incidental and secondary to the use as a residence; that does not generate a significant increase in traffic, noise, smoke, vibration, dust, odors, glare, unsightliness or other effects not normally produced by a residence; that involves no exterior display or storage of goods, tools, materials or equipment or the parking of more than one commercial vehicle; that gives no exterior indication of such occupation, other than one sign not over four square feet; that involves only motive power normally found in a home; that does not employ more than two persons not resident therein; that involves the exercise of artistic, domestic, personal or professional skills; and that requires the approval of the Board of Health for disposal of any waste generated by such occupation that differs in quantity or composition from domestic solid or liquid waste.

DOG KENNEL — The keeping for sale or boarding purposes, including convalescence or treatment, of more than three dogs that are more than six months old.

DWELLING, MULTIFAMILY — A dwelling containing two or more dwelling units.**[Added 4-30-1990 ATM by Art. 48]**

DWELLING UNIT — Living quarters for a single family.**[Added 4-30-1990 ATM by Art. 48]**

FAMILY — Any number of individuals related by blood, marriage or adoption, and not more than six individuals not so related, living together as a single housekeeping unit. (The limit on the number of unrelated individuals shall not apply to foster children under 16 years of age.)

FARM — Land or premises used to raise agricultural, silvicultural or horticultural products, livestock, poultry and dairy products, but excepting, to the extent permitted pursuant to applicable state law and regulation, piggeries, dog kennels, riding stables and the raising of

carnivorous fur-bearing animals.**[Amended 10-7-2013 STM by Art. 9]**

FLOOR AREA, GROSS — The aggregate horizontal area, in square feet, of all floors of a building or several buildings on the same lot, measured from the interior faces of walls enclosing each building, exclusive of stair and elevator wells, garages, basement and other areas used only for storage or for services incidental to the operation and maintenance of such a building or buildings. In the absence of information as to what portion of the building will be used for such storage and services, 80% of the aggregate floor area shall be deemed to be the floor area for the purposes of computing the required off-street parking and loading spaces.

FLOOR AREA RATIO — The ratio of the aggregate gross floor area of all floors of a building or buildings on a lot to the total lot area. The gross floor area shall not include unenclosed porches, cellars, attics or garages not used for human occupancy.

FRONTAGE — The distance along a continuous portion of a street line between intersections with lot side lines, provided that for lots abutting more than one street, frontage shall be required and measured along one street only, but the yard required by Article III hereof shall be provided along each street the lot abuts, and that for corner lots, frontage shall be measured to the intersection of street lines or to the middle of the corner rounding curve connecting such street lines, and further provided that a lot shall only be deemed to have "frontage" along any street to which it has both legal and physical access.

FUR FARM — The keeping or raising of carnivorous fur-bearing animals for commercial purposes.

GARAGE — A garage in the Residence A and Residence B Districts shall be considered an accessory use to a home or building.**[Added 4-15-2003 ATM by Art. 62]**

HEIGHT — The vertical difference between the average of the mean finished ground elevations of all sides of the building or structure and the elevation of the highest point of the roof for flat roofs, to the deckline of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. This definition shall not include signs and the structural features exempt by § 174-15 hereof and extending not more than 20 feet above the permitted height. For buildings subject to site plan approval under § 174-10 hereof, the average finished ground elevation shall not be raised above the original natural ground through fill or regrading to more than two feet above the center-line grade of the frontage street opposite the proposed building, unless the approved site plan provides for such buildup.**[Added 4-8-1985 ATM by Art. 38]**

HOUSING FOR THE ELDERLY — Housing with occupancy of each dwelling unit reserved to no more than two persons, one of whom must

either be 55 years of age or older or handicapped.**[Added 4-14-1986 ATM by Art. 37]**

IMPERVIOUS — Impenetrable by surface water.**[Added 4-14-1986 ATM by Art. 40]**

INDIVIDUAL — A human being.

JUNKYARD — Premises used for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded materials or for collecting, dismantling, storage, salvage and sale of used machinery, vehicles or parts thereof.

LOT — A single tract of land in identical ownership throughout with definite boundaries ascertainable through a recorded plan or deed.

MAJOR RESIDENTIAL DEVELOPMENT — Refer to § 174-13.2A.**[Added 4-14-1986 ATM by Art. 36; amended 4-10-1995 ATM by Art. 46]**

MOBILE HOME — A structure, transportable in one or more units, built on a permanent chassis, equipped with wheels for towing to its destination, provided with internal heating, plumbing and electrical systems and designed to be used as a dwelling when connected to the required utilities, with or without a foundation.

NONCONFORMING BUILDING, LOT OR USE — A legally existing building, lot, location of building on a lot or use of buildings or land which does not conform to the zoning regulations for the district in which it is located.

NONPROFIT COMMUNITY HOUSING ORGANIZATION — A Massachusetts corporation or foundation, no part of the net earnings of which inures to the benefit of any private shareholder or individual, established by Southborough residents for the sole purpose of providing housing facilities and services.**[Added 4-14-1986 ATM by Art. 37]**

ONE-FAMILY HOUSE — A detached dwelling intended and designed to be occupied by a single family.

OPEN SPACE — That portion of the lot area that is not covered by any structure and not used for drives, parking, storage or display. Wetlands, ponds and man-made retention areas shall not be considered open space for the purpose of calculating the requirements of this bylaw. Subsurface sewage disposal systems shall not be allowed within designated open space except that areas designated for reserve or expansion of an individual or shared system shall be allowed only if in the opinion of the Board of Health no other options are available or if in the opinion of the Planning Board it would be beneficial to the overall layout of the development. All open space shall be stabilized with natural vegetative cover. Open space shall be permanently protected by recorded deed.**[Added 4-10-2000 ATM by Art. 53]**

PERSON — One or several individuals, a family, firm, partnership, association, corporation, company or institutional organization of any kind.

PIGGERY — The keeping of five or more pigs over one-year old.

PREMISES — A lot, with all buildings, structures, improvements and uses thereon.

RESTAURANT — An establishment primarily for serving by a waiter or waitress, and consumption of meals at tables or at a counter, on the premises.**[Added 1-27-1996 STM by Art. 5]**

ROADSIDE STAND — A structure erected and used exclusively for the sale of flowers or farm and garden products, the majority of which, by value, have been grown on the premises or within the Town of Southborough. The structure may be located within the minimum required front yard, but at least 12 feet from the nearest street line, if built of wood and other readily movable materials, without a foundation, integral heating or permanent utility connections, and not over 350 square feet gross floor area.

STORY — The part of a building between the top of any floor and the top of the floor or roof next above, including a basement, but excluding a cellar or attic.**[Added 4-13-1987 ATM by Art. 41]**

STORY, HALF — That part of a building under a gable or sloping roof in which the intersection of the bottom of the rafters with the interior faces of the outside walls is four feet or less above the floor level or that part of a building if more than half of its exterior wall is below the mean finished ground elevation, and excluding a cellar or attic used solely for utilities, services or storage and not for sustained human occupancy.**[Added 4-8-1985 ATM by Art. 38; amended 4-13-1987 ATM by Art. 41]**

STREET — A public way laid out for vehicular traffic; a private way laid out and approved under the authority of the Subdivision Control Law, Chapter 41 of the General Laws; a way which the Town Clerk certifies has been used and maintained as a public way; or a way in existence when the Subdivision Control Law went into effect in the Town of Southborough and having, in the opinion of the Planning Board, adequate width, construction and grades for the needs of the existing and future buildings and uses abutting thereon or to be served thereby.

STRUCTURE — A man-made combination of materials assembled in a fixed location to give support or shelter or for any other purpose, including buildings, frameworks, platforms, sheds and the like, provided that signs, utility poles and small decorative or accessory structures not over three feet in height or six feet in any dimension, such as sculptures, mailboxes, birdbaths, benches and the like, shall not be subject to the yard requirements of this chapter if located at least five feet from side or rear lot lines. Fences that are not over six feet in height shall not be considered structures.**[Amended 4-10-2000 ATM by Art. 56]**

TOXIC OR HAZARDOUS MATERIALS — Substances listed on the Massachusetts Substance List contained in 105 CMR 670, Appendix A, substances regulated as hazardous under MGL c. 21C, as amended, and regulated substances defined under Subtitle 1, Section 9001, of the Resource Conservation and Recovery Act, as amended. **[Added 4-14-1986 ATM by Art. 40]**

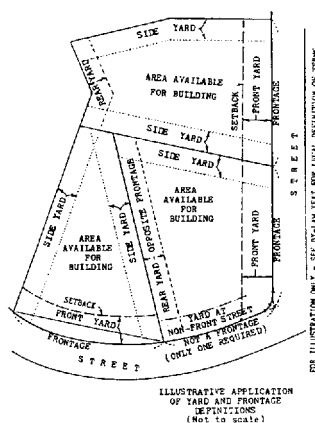
TRAILER — A wheeled vehicle designed to be towed and having no own motive power, including, without limitations, camping or travel trailers equipped to be used for business, for transportation of goods or for living or sleeping purposes, but not as a dwelling in a permanent location.

VEHICULAR USE AREA — Includes all areas used for the circulation, parking and/or display of any and all types of vehicles, boats or heavy construction equipment, whether self-propelled or not, and all land upon which vehicles traverse as a function of the primary uses. Driveways and parking spaces serving single-family residential uses shall be an exception to this definition. **[Added 4-26-1990 ATM by Art. 42]**

WIDTH — The straight-line distance between lot lines parallel to a line connecting lot corners at frontage street and applicable for the entire front yard or setback depth.

WIRELESS COMMUNICATIONS TOWER — A structure (with antennas, if any) designated to facilitate the following types of services: cellular telephone service, personal communications service and enhanced specialized mobile radio service. **[Added 4-15-1997 ATM by Art. 52]**

YARD — A strip of land, unoccupied by buildings or structures, between a street or a lot line and a line parallel thereto at a depth equal to the minimum distance to the nearest part of any building or structure, measured at right angles to such street or lot line. If a lot is triangular or wedge-shaped, it shall have no rear yard, while on an irregular-shaped lot, the rear yard shall be adjacent to the lot line most nearly opposite the frontage street. The minimum required yard may also be referred to as the required setback.



ARTICLE II
Establishment of Districts

§ 174-3. Districts enumerated.

For the purpose of this chapter, the Town of Southborough is hereby divided into the following classes of districts:

- A. Residence A Districts, which may be referred to as RA Districts.
- B. Residence B Districts, referred to as RB Districts.
- C. (Reserved)¹⁶
- D. Industrial Districts, referred to as ID Districts.
- E. Industrial Park Districts, referred to as IP Districts.
- F. Conservation Districts, referred to as C Districts.
- G. Wetland and Floodplain Districts, referred to as WFP Districts.
- H. Research, Scientific and Professional Districts, referred to as SP Districts.
- I. Critical Resource Districts, referred to as CR Districts. **[Added 4-14-1986 ATM by Art. 38]**
- J. Village Business Districts, referred to as BV Districts. **[Added 4-14-1986 ATM by Art. 49]**
- K. Highway Business Districts, referred to as BH Districts. **[Added 4-14-1986 ATM by Art. 49]**
- L. Wireless Communication Service Districts, referred to as WCS Districts. **[Added 4-15-1997 ATM by Art. 52]**

§ 174-4. Zoning Map.¹⁷ [Amended 4-15-2008 ATM by Art. 37]

The location and boundaries of zoning districts are as shown on the Zoning Map of the Town of Southborough, dated April 9, 1984, as from time to time amended by votes of the Town Meeting, which map hereby is incorporated into and made a part of this chapter. The original Zoning Map, signed by the Planning Board and the Town Clerk, shall be in custody of the Town Clerk, and facsimile copies thereof shall be reproduced for distribution and sale with this chapter. Whenever the Zoning Map is amended, a notation of the Article and date of the Town vote of such an amendment shall be entered on the Zoning Map as soon as possible upon approval of the amendment

16. Editor's Note: Former Subsection C, Business Districts, was repealed 4-14-1986 ATM by Art. 49.

17. Editor's Note: The Town voted at the 4-10-2006 ATM, by Art. 42, to amend the Zoning Map by deleting in its entirety the Zoning Map dated March 1984 and substituting in its place the Zoning Map dated March 2006.

by the Attorney General, but any delay in showing the amendment shall not affect its validity. The addition of new streets or other geographic features to the Zoning Map to facilitate orientation may be undertaken from time to time without action by the Town and without changing district boundaries. For the purpose of defining the boundaries of Wetland and Floodplain Districts, the following maps on file in the office of the Town Clerk are hereby specifically, by reference, incorporated into and made a part of this chapter and the Zoning Map: Profiles - Main Stem Upper Sudbury River, and all land shown thereon at or below the one-hundred-year flood elevation along or sloping toward Sudbury River between Westborough-Hopkinton and Ashland town lines, as shown in Zone A (100-Year Flood Zone) on the current version of the National Flood Insurance Rate Map (as may be updated by the Federal Emergency Management Agency or its successor from time to time), is included in the WFP District, and Town of Southborough Natural Resources Map and all wetlands three acres or larger shown thereon are included in the Wetland and Floodplain District. For the purposes of defining the boundaries of the Conservation District, the map entitled "Planning Board, Town of Southborough, Worcester County, Massachusetts," dated 1964, James V. Sewall Company, Oldtown, Maine, is hereby, by reference, incorporated into and made a part of this chapter, and the Zoning Map, and all land shown on said map as green, shall be deemed to be in the Conservation District.

§ 174-5. Interpretation of boundaries.

- A. Where a right-of-way, street, railroad or watercourse is shown on the map as a district boundary, the center line thereof shall be the boundary line.
- B. Where a district boundary is shown approximately parallel to a street, it shall be deemed parallel to the exterior street line and at such distance therefrom as indicated on the Zoning Map.
- C. Where district boundary lines specifically follow property lines as indicated on the Zoning Map, the location of said lines shall be deemed to be established to coincide with those property lines as they existed at the time said boundary lines were adopted.
- D. Where a district boundary line divides a lot existing at the time such line is adopted, the regulations relating to the less restricted portion of such lot may extend not more than 30 feet into the more restricted portion, provided that the lot has frontage in the less restricted district, and further provided that this Subsection D shall not apply to the boundaries of Wetland and Floodplain Districts. **[Amended 4-14-1986 ATM by Art. 53]**

ARTICLE III
Use Regulations

§ 174-6. Applicability.

No land in any district shall hereafter be used or occupied and no building or structure shall hereafter be occupied, used or erected or the use of buildings and land altered except as set forth in the following Schedule of Use Regulations or as specifically regulated or provided otherwise under other sections hereof, provided that the accessory uses and buildings not enumerated in the schedule but necessarily or customarily incidental to a principal use, including the signs otherwise allowed, shall be deemed to fall into the same category as such principal use. Streets and easements for public services are a permitted use in all districts, except the Wetland and Floodplain Districts.

§ 174-7. Conflict of classifications.

Where an activity may be classified under more than one use listed in the Schedule of Use Regulations, the more specific classification shall apply, and if equally specific, the more restrictive classification shall govern.

§ 174-8. Schedule of Use Regulations. [Amended 4-8-1985 ATM by Art. 37; 4-14-1986 ATM by Arts. 5, 25, 36, 37, 38, 40, 46 and 49; 4-30-1990 ATM by Arts. 48 and 50; 4-8-1991 ATM by Art. 52; 4-12-1993 ATM by Art. 43]

- A. No building or structure shall be constructed and no building, structure or land or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located or set forth as permissible by special permit in said district and so authorized.
- B. Further, no building shall be constructed and no building, structure or land or any part thereof shall be used and no lot shall be changed in size or shape unless in conformity with the dimensional regulations set forth for each district.
- C. The following notes apply to all districts:
 - (1) All uses and buildings for which off-street parking is required, other than one- and two-family dwellings, shall be subject to the site plan review and approval by the Planning Board, as provided in § 174-10.
 - (2) Not more than one principal permitted use shall be located on any lot, provided that a multiple occupancy building used for the same category of use, such as retail sales and services, light manufacturing or offices in a business district or Industrial Park District shall be deemed to be in a single principal permitted use. The Board of Appeals may, by special permit, allow several different

uses if otherwise permitted in the district or several buildings on the same lot if such uses or buildings are deemed to be compatible, meet the requirements of § 174-9 and result in improved circulation and land use patterns.

(3) For uses subject to a special permit:

- (a) Refer also to § 174-9, Special permit requirements;
- (b) References to a special permit being required for piggeries, dog kennels, riding stables and the raising of carnivorous fur-bearing animals are effective to the extent that such activities are not allowed by applicable state law or regulation;
- (c) References to a special permit being required for riding stables are effective to the extent that such activities are not allowed by applicable state law or regulation;
- (d) References to a special permit being required for a private school, nursery or kindergarten are effective to the extent that such activities are not allowed by applicable state law or regulation;
- (e) References to a special permit being required for multifamily dwellings are effective if such dwellings are within a major residential development created with an optional special permit as specified in § 174-13.2A, and not for multifamily dwellings within a major residential development created by right as specified in § 174-13.2A; and
- (f) References to a special permit being required for major residential development are effective if a major residential development is created with an optional special permit as specified in § 174-13.2A, and not for a major residential development created by right as specified in § 174-13.2A.

(4) (Reserved)

- (5) Any lot created after April 8, 1996, in any zoning district except the BV Business Village District shall contain a minimum lot area of 20,000 square feet exclusive of wetlands as defined in the Wetlands Protection Act, MGL c. 131, § 40. Lots created under the Major Residential Development Bylaw (§ 174-13.2) flexible development provision that are less than 20,000 square feet shall be entirely exclusive of wetlands. **[Added 4-8-1996 ATM by Art. 54]**

§ 174-8.1. C Conservation District. [Added 4-12-1993 ATM by Art. 43]

A. Permitted uses are as follows:

- (1) Park, open space, noncommercial recreation, fishing and hunting where legally permitted, wildlife management and conservation area.
 - (2) Agriculture, horticulture, floriculture or viticulture, but excepting, to the extent permitted pursuant to applicable state law and regulation, piggeries and fur farms. **[Amended 10-7-2013 STM by Art. 9]**
 - (3) Temporary nonresidential structure accessory to farming, fishing or similar permitted use of the land.
 - (4) Signs as permitted under § 174-11.
 - (5) Roadside stand.
- B. Uses by special permit are as follows:
- (1) Private garage or parking for more than three cars or one truck or other commercial vehicle. (Note: For uses subject to a special permit, refer also to § 174-9, Special permit requirements.)
- C. Uses prohibited. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited. (Note: New or expanded uses required by the Metropolitan District Commission or other public agency having jurisdiction there for the purposes of water supply, drainage and land or water conservation are permissible in the Conservation District.)

§ 174-8.2. RA Residence A District. [Added 4-12-1993 ATM by Art. 43]

- A. Permitted uses are as follows:
- (1) All uses permitted in the Conservation District.
 - (2) One-family houses.
 - (3) Religious uses, public or nonprofit school.
 - (4) Public or nonprofit library, museum, art gallery or a similar cultural institution.
 - (5) Town or other government building.
 - (6) Renting of rooms or furnishing of board to not more than four persons by a resident family in a one-family house.
 - (7) Mobile home or travel trailer used as a dwelling for 30 days or fewer in a year.
 - (8) Construction of private garage or private parking for not more than three vehicles, that is accessory to a permitted principal use and on the same lot as such use. One vehicle may be a truck or

other commercial vehicle. **[Amended 4-8-2002 ATM by Art. 67; 4-15-2003 ATM by Art. 61]**

(9) Customary home occupation.

(10) Parking in a garage or out of doors for employees, customers, clients, occupants or students, accessory to a permitted principal use and on the same lot as such use.

B. Uses by special permit are as follows:

(1) Accessory apartment.

(2) Boat livery, cemetery, children's camp, golf course, private nonprofit membership club, public utility, riding stable, ski tow.

(3) Hospital, nursing home, home for the aged.

(4) Private school, nursery or kindergarten.

(5) Veterinarian, animal hospital, dog kennel.

(6) Conversion of a one-family house in existence for two years or longer to a two-family dwelling, on a lot with a minimum of 15,000 square feet.

(7) Mobile home or travel trailer used as a dwelling for more than 30 days in a year.

(8) Multifamily housing for the elderly, owned by a public or a nonprofit community housing organization.

(9) Other multifamily dwellings if within a major residential development. (Note: Special permit from the Planning Board.)

(10) Major residential development. (Note: Special permit from the Planning Board.)

(11) Office-type trailer or mobile home used as business quarters.

(12) Private garage or private parking for more than three vehicles, that is accessory to a permitted principal use and on the same lot as such use. **[Amended 4-8-2002 ATM by Art. 67; 4-15-2003 ATM by Art. 61]**

C. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.

D. Development standards are as follows:

(1) Minimum lot area: 43,560 square feet; minimum 20,000 square feet exclusive of wetlands. **[Amended 4-8-1996 ATM by Art. 54]**

(2) Minimum frontage: 150 feet.

- (3) Minimum setbacks:
 - (a) Front: 35 feet.
 - (b) Rear: 50 feet; 10 feet for accessory buildings and swimming pools.
 - (c) Side: 25 feet; 10 feet for accessory buildings and swimming pools.
 - (d) Other street: 35 feet.
- (4) Maximum height: 35 feet, 2 1/2 stories (17 feet, one story for accessory buildings). **[Amended 4-8-2002 ATM by Art. 68]**
- (5) Maximum floor area ratio: 0.18.
- (6) In the RA District, no lot shall be considered a building lot unless the center of a seventy-five-foot diameter circle can be passed along a continuous line from the lot frontage to the rear yard setback without the circumference intersecting any lot lines and unless the center of the seventy-five-foot diameter circle can be passed along 40% of the required frontage without the circumference intersecting any side or rear lot line. This Subsection D(6) shall not apply to an existing lot or existing dwelling for which a building permit has been issued as of the effective date of adoption of this Subsection D(6), or to any alteration, extension or structural change thereto. **[Added 4-10-1995 ATM by Art. 47; amended 4-12-1999 ATM by Art. 64]**

§ 174-8.3. RB Residence B District. [Added 4-12-1993 ATM by Art. 43]

- A. Permitted uses are the uses permitted in the Residence A (RA) District.
- B. Uses by special permit are all uses permitted by special permit in the Residence A (RA) District.
- C. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.
- D. Development standards are as follows:
 - (1) Minimum lot area: 25,000 square feet; minimum 20,000 square feet exclusive of wetlands. **[Amended 4-8-1996 ATM by Art. 54]**
 - (2) Minimum frontage: 125 feet.
 - (3) Minimum setbacks:
 - (a) Front: 30 feet.

- (b) Rear: 35 feet; 10 feet for accessory buildings and swimming pools.
 - (c) Side: 15 feet; 10 feet for accessory buildings and swimming pools. **[Amended 4-11-1994 ATM by Art. 41]**
 - (d) Other street: 30 feet.
 - (4) Maximum height: 35 feet, 2 1/2 stories (17 feet, one story for accessory buildings). **[Amended 4-8-2002 ATM by Art. 68]**
 - (5) Maximum floor area ratio: .30.
 - (6) In the RB District, no lot shall be considered a building lot unless the center of a 62.5 foot diameter circle can be passed along a continuous line from the lot frontage to the rear yard setback without the circumference intersecting any lot lines and unless the center of the 62.5 foot diameter circle can be passed along 40% of the required frontage without the circumference intersecting any side or rear lot line. This Subsection D(6) shall not apply to an existing lot or existing dwelling for which a building permit has been issued as of the effective date of adoption of this Subsection D(6), or to any alteration, extension or structural change thereto. **[Added 9-10-1995 ATM by Art. 47; amended 4-12-1999 ATM by Art. 64]**
- E. Residence C Districts were discontinued in 1966; however, lots laid out and recorded in Residence B Districts prior to the discontinuance may be built onto the following dimensions for one-family houses:
- (1) Minimum lot area: 15,000 square feet.
 - (2) Minimum frontage: 100 feet.
 - (3) Minimum setbacks:
 - (a) Front: 25 feet.
 - (b) Rear: 30 feet; 10 feet for accessory buildings and swimming pools.
 - (c) Side: 10 feet.
 - (4) Maximum height: 35 feet, 2 1/2 stories (one story for accessory buildings).
 - (5) Maximum floor area ratio: 0.45.

§ 174-8.4. BV Business Village District. [Added 4-12-1993 ATM by Art. 43]

A. Permitted uses are as follows:

- (1) All uses permitted in the residential districts (RA and RB).

- (2) A mobile home or travel trailer used as a dwelling or business quarters for 30 days or fewer in a year.
- B. Permitted uses up to 2,000 square feet are as follows:
- (1) Retail sales and services which do not involve manufacturing on the premises.
 - (2) Newspaper, job printing and publishing.
 - (3) Office, bank, office building.
 - (4) Hotel or motel, restaurant (excluding drive-through food service establishments). **[Amended 1-27-1996 STM Art. 5]**
 - (5) Clinic or medical testing laboratory.
 - (6) Dwelling on the premises for a night watchman or janitor.
 - (7) Cafeteria on the premises for use by employees and not the general public.
- C. Permitted uses by special permit from the Planning Board are as follows:
- (1) All uses listed in Subsection B that are greater than 2,000 square feet.
 - (2) Major residential development.
 - (3) Multifamily dwellings if within a major residential development.
 - (4) Hospital, nursing home, home for the aged.
 - (5) Private school, nursery or kindergarten.
 - (6) Veterinarian, animal hospital, dog kennel.
 - (7) Multifamily housing for the elderly, owned by a public or a nonprofit community organization.
 - (8) Private garage or parking for more than three cars or more than one truck or other commercial vehicle.
 - (9) Indoor recreation, athletic or exercise facility. **[Amended 4-8-1996 ATM by Art. 56]**
 - (10) Sale or storage of fuel, lumber, building materials and equipment, contractor's yard.
 - (11) Retail sales and services involving manufacturing of products, the majority of which will be sold on the premises to consumers, with not more than four persons engaged in manufacturing operations.
 - (12) Automotive service, gasoline station or repair garage, automotive sales.

D. Uses by special permit from the Zoning Board of Appeals are as follows:

- (1) Accessory apartment.
- (2) Boat livery, cemetery, children's camp, golf course, private nonprofit membership club, public utility, riding stable, ski tow.
- (3) Conversion of a one-family house in existence for two years or longer to a two-family dwelling, on a lot with a minimum of 15,000 square feet.
- (4) A mobile home or travel trailer used as a dwelling or business quarters for more than 30 days in a year.

E. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.

F. Development standards (Note: Also refer to § 174-10.1, Village Business District plan review.) are as follows:

- (1) Minimum lot area: 10,000 square feet.
- (2) Minimum frontage: 60 feet.
- (3) Minimum setbacks:
 - (a) Front: 10 feet; 25 feet if on Route 9.
 - (b) Rear: 35 feet.
 - (c) Side: 10 feet; 25 feet if adjacent to a residential district.
 - (d) Other street: 10 feet; 25 feet if on Route 9.
- (4) Maximum height: 35 feet, three stories.
- (5) Residential dwellings. Residential dwellings in the Business Village District must comply with RB District standards.

§ 174-8.5. BH Highway Business District. [Added 4-12-1993 ATM by Art. 43]

A. Permitted uses are as follows:

- (1) All uses permitted in the Residential Districts.
- (2) Dwelling on the premises for a night watchman or janitor.
- (3) Cafeteria on the premises for use by employees and not for the general public.

B. Permitted uses up to 50,000 square feet are as follows:

- (1) Office-type trailer or mobile home used as business quarters for 30 days or fewer in a year.

- (2) Retail sales and services which do not involve manufacturing on the premises.
 - (3) Retail sales and services involving manufacturing of products, the majority of which will be sold on the premises to consumers, with not more than four persons engaged in manufacturing operations.
 - (4) Newspaper, job printing and publishing.
 - (5) Office, bank, office building.
 - (6) Hotel or motel, restaurant (excluding drive-through food service establishments). **[Amended 1-27-1996 STM by Art. 5]**
 - (7) Clinic or medical testing laboratory.
 - (8) Automotive service, gasoline station or repair garage, automotive sales.
- C. Uses permitted by special permit are as follows:
- (1) All uses allowed in Subsection B that exceed 50,000 square feet.
 - (2) Accessory apartment.
 - (3) Boat livery, cemetery, children's camp, golf course, private nonprofit membership club, public utility, riding stable, ski tow.
 - (4) Hospital, nursing home, home for the aged.
 - (5) Private school, nursery or kindergarten.
 - (6) Veterinarian, animal hospital, dog kennel.
 - (7) Conversion of a one-family house in existence for two years or longer to a two-family dwelling, on a lot with a minimum of 15,000 square feet.
 - (8) Mobile home or travel trailer used as a dwelling or business quarters for more than 30 days in a year.
 - (9) Multifamily housing for the elderly, owned by a public or a nonprofit community housing organization.
 - (10) Private garage or parking for more than three cars or more than one truck or other commercial vehicle.
 - (11) Indoor recreation, athletic or exercise facility; theater for cultural arts. **[Amended 4-8-1996 ATM by Art. 56]**
 - (12) Sale or storage of fuel, lumber, building materials and equipment, contractor's yard.
 - (13) Hazardous waste storage and disposal facilities, other than small generators, as defined by the Environmental Protection Agency

and the Commonwealth of Massachusetts, except that a special permit may be issued for such a facility upon approval by the appropriate federal and state agencies, review and comment by the Southborough Board of Health, Conservation Commission, Planning Board and Fire and Police Chiefs, following a duly advertised public hearing and in accordance with the Hazardous Waste Facilities Siting Law.¹⁸

- (14) Registered marijuana dispensary as defined in 105 CMR 725.004.
[Added 4-16-2014 ATM by Art. 17]

D. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.

E. Development standards are as follows:

- (1) Minimum lot area: 43,560 square feet (minimum 20,000 square feet exclusive of wetlands). **[Amended 4-8-1996 ATM by Art. 54]**
- (2) Minimum frontage: 200 feet.
- (3) Minimum setbacks:
 - (a) Front: 50 feet; 75 feet if on Route 9.
 - (b) Rear: 50 feet.
 - (c) Side: 50 feet.
 - (d) Other street: 25 feet; 37 1/2 feet if on Route 9.
- (4) Maximum height: 45 feet, three stories.
- (5) Maximum floor area ratio: 0.60.
- (6) Residential dwellings. Residential dwellings in the Highway Business District must comply with RB District standards.

§ 174-8.6. IP Industrial Park District. [Added 4-12-1993 ATM by Art. 43]

A. Permitted uses are as follows:

- (1) All uses permitted in the Conservation District.
- (2) Dwelling on the premises for a night watchman or janitor.
- (3) Cafeteria on the premises for use by employees and not for the general public.

B. Uses permitted up to 50,000 square feet are as follows:

18.Editor's Note: See MGL c. 21D.

- (1) Newspaper, job printing and publishing.
- (2) Office, bank, office building.
- (3) Wholesale distribution and storage within a building other than a solid waste transfer station.
- (4) Scientific research and development, including manufacturing, instruction and other activities clearly incidental thereto at the maximum density of three employees per acre of lot and with a direct access to an arterial street, as defined by the Town of Southborough Planning Board.

C. Uses requiring a special permit are as follows:

- (1) All uses permitted in Subsection B that exceed 50,000 square feet.
- (2) Accessory apartment.
- (3) Conversion of a one-family house in existence for two years or longer to a two-family dwelling, on a lot with a minimum of 15,000 square feet.
- (4) Mobile home or travel trailer used as a dwelling or business quarters for more than 30 days in a year.
- (5) Multifamily housing for the elderly, owned by a public or nonprofit community housing organization.
- (6) Boat livery, cemetery, children's camp, golf course, private nonprofit membership club, public utility, riding stable, ski tow.
- (7) Hospital, nursing home, home for the aged.
- (8) Private school nursery or kindergarten.
- (9) Veterinarian, animal hospital, dog kennel.
- (10) Private garage or parking for more than three cars or more than one truck or other commercial vehicle.
- (11) Light manufacturing, fabrication, assembly and processing utilizing electric or other similar quiet motive power and processes and generating no adverse impacts on the neighborhood and properties therein.
- (12) Hazardous waste storage and disposal facilities, other than small generators, as defined by the Environmental Protection Agency and the Commonwealth of Massachusetts, except that a special permit may be issued for such a facility upon approval by the appropriate federal and state agencies, review and comment by the Southborough Board of Health, Conservation Commission, Planning Board and Fire and Police Chiefs, following a duly

advertised public hearing and in accordance with the Hazardous Waste Facilities Siting Law.¹⁹

- (13) Adult bookstore, adult video store, adult paraphernalia store, adult motion-picture theater, adult live entertainment (see § 174-9I). **[Added 4-8-1996 ATM by Art. 56]**
- (14) Heliport or landing place for helicopter, not including storage or maintenance facilities as an accessory use to a permitted principal use. **[Added 4-15-1997 ATM by Art. 53]**
- (15) Registered marijuana dispensary as defined in 105 CMR 725.004. **[Added 4-16-2014 ATM by Art. 17]**
- D. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.
- E. Development standards are as follows:
 - (1) Minimum lot area: 43,560 square feet (minimum 20,000 square feet exclusive of wetlands). **[Amended 4-8-1996 ATM by Art. 54]**
 - (2) Minimum frontage: 200 feet.
 - (3) Minimum setbacks:
 - (a) Front: 50 feet; 75 feet if on Route 9.
 - (b) Rear: 50 feet.
 - (c) Side: 50 feet.
 - (d) Other street: 50 feet.
 - (4) Maximum height: 45 feet, three stories.
 - (5) Maximum floor area ratio: 0.60.

§ 174-8.7. ID Industrial District. [Added 4-12-1993 ATM by Art. 43]

- A. Permitted uses are as follows:
 - (1) All uses permitted in residential districts.
 - (2) Boat livery, cemetery, children's camp, golf course, private nonprofit membership club, public utility, riding stable, ski tow.
 - (3) Hospital, nursing home, home for the aged.
 - (4) Private school, nursery or kindergarten.
 - (5) Veterinarian, animal hospital, dog kennel.

19. Editor's Note: See MGL c. 21D.

- (6) Dwelling on the premises for a night watchman or janitor.
 - (7) Cafeteria on the premises for use by employees and not for the general public.
- B. Uses permitted up to 50,000 square feet are as follows:
- (1) Private garage or parking for more than three cars or more than one truck or other commercial vehicle.
 - (2) Indoor recreation, athletic or exercise facility; theater for cultural arts. **[Amended 4-8-1996 ATM by Art. 56]**
 - (3) Sale or storage of fuel, lumber, building materials and equipment, contractor's yard.
 - (4) Retail sales and services which do not involve manufacturing on the premises.
 - (5) Retail sales and services involving manufacturing of products, the majority of which will be sold on the premises to consumers, with not more than four persons engaged in manufacturing operations.
 - (6) Newspaper, job printing and publishing.
 - (7) Office, bank, office building.
 - (8) Hotel or motel, restaurant (excluding drive-through food service establishments). **[Amended 1-27-1996 STM by Art. 5]**
 - (9) Clinic or medical testing laboratory.
 - (10) Automotive service, gasoline station or repair garage, automotive sales.
- C. Uses requiring a special permit are as follows:
- (1) All uses permitted in Subsection B that exceed 50,000 square feet.
 - (2) Accessory apartment.
 - (3) Conversion of one-family house in existence for two years or longer to a two-family dwelling, on a lot with a minimum of 15,000 square feet.
 - (4) Mobile home or travel trailer used as a dwelling or business quarters for more than 30 days in a year.
 - (5) Multifamily housing for the elderly, owned by a public or nonprofit community housing organization.
 - (6) Major residential development. (Note: Special permit from the Planning Board.)

- (7) Multifamily dwellings, if within a major residential development. (Note: Special permit from the Planning Board.)
 - (8) (Reserved)²⁰
 - (9) Wholesale distribution and storage within a building, other than a solid waste transfer business; warehousing (excluding trucking terminals with through shipping). **[Amended 4-8-1996 ATM by Art. 56]**
 - (10) Hazardous waste storage and disposal facilities, other than small generators, as defined by the Environmental Protection Agency and the Commonwealth of Massachusetts, except that a special permit may be issued for such a facility upon approval by the appropriate federal and state agencies, review and comment by the Southborough Board of Health, Conservation Commission, Planning Board and Fire and Police Chiefs, following a duly advertised public hearing and in accordance with the Hazardous Waste Facilities Siting Law.²¹
 - (11) (Reserved)
 - (12) Scientific research and development, including manufacturing, instruction and other activities clearly incidental thereto, and with direct access to an arterial street, as defined by the Town of Southborough Planning Board.
 - (13) Light manufacturing, fabrication, assembly and processing utilizing electric or other similar quiet motive power and processes and generating no adverse impacts on the neighborhood and the properties therein.
 - (14) Registered marijuana dispensary as defined in 105 CMR 725.004. **[Added 4-16-2014 ATM by Art. 17]**
- D. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.
- E. Development standards are as follows:
- (1) Minimum lot area: 43,560 square feet (minimum, 20,000 square feet exclusive of wetlands). **[Amended 4-8-1996 ATM by Art. 54]**
 - (2) Minimum frontage: 200 feet.
 - (3) Minimum setbacks:
 - (a) Front: 50 feet; 75 feet if on Route 9.

20. Editor's Note: Former Subsection C(8), Bottling plant, was repealed 4-8-1996 ATM by Art. 56.

21. Editor's Note: See MGL c. 21D.

- (b) Rear: 50 feet.
- (c) Side: 50 feet.
- (d) Other street: 25 feet; 37.5 feet if on Route 9.
- (4) Maximum height: 45 feet, three stories.
- (5) Maximum floor area ratio: 0.60.
- (6) Residential dwellings. Residential dwellings in the ID District must comply with the standards of the RB District.

§ 174-8.8. SP Research, Scientific and Professional District. [Added 4-12-1993 ATM by Art. 43]

A. Permitted uses are as follows:

- (1) All uses permitted in residential districts.
- (2) Office-type trailer or mobile home used as business quarters for 30 days or fewer.
- (3) Dwelling on the premises for a night watchman or janitor.
- (4) Cafeteria on the premises for use by employees and not for the general public.

B. Uses permitted by special permit are as follows:

- (1) Accessory apartment.
- (2) Boat livery, cemetery, children's camp, golf course, private nonprofit membership club, public utility, riding stable, ski tow.
- (3) Hospital, nursing home, home for the aged.
- (4) Private school, nursery or kindergarten.
- (5) Veterinarian, animal hospital, dog kennel.
- (6) Conversion of a one-family dwelling, in existence for two years or longer, to a two-family dwelling, on a lot with a minimum of 15,000 square feet.
- (7) Mobile home or travel trailer used as a dwelling or business quarters for more than 30 days in a year.
- (8) Multifamily housing for the elderly, owned by a public or a nonprofit community housing organization.
- (9) Other multifamily dwellings, if within a major residential development. (Note: Special permit from the Planning Board.)
- (10) Major residential development. (Note: Special permit from the Planning Board.)

- (11) Private garage or parking for more than three cars or more than one truck or other commercial vehicle.
 - (12) Scientific research and development, including manufacturing, instruction and other activities clearly incidental thereto, at the maximum density of three employees per acre of lot and with direct access to an arterial street, as defined by the Town of Southborough Planning Board.
- C. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.
- D. Development standards are as follows:
- (1) Minimum lot area: 50 acres; minimum 20,000 square feet exclusive of wetlands. **[Amended 4-8-1996 ATM by Art. 54]**
 - (2) Minimum frontage: 500 feet.
 - (3) Minimum setbacks:
 - (a) Front: 150 feet.
 - (b) Rear: 200 feet.
 - (c) Other street: 200 feet.
 - (4) Maximum height: 35 feet, three stories.
 - (5) Maximum floor area ratio: 0.40.
 - (6) Residential dwellings. Residential dwellings in the SP District must comply with the standards of the RA District.

§ 174-8.9. WFP Wetland and Floodplain District. [Added 4-12-1993 ATM by Art. 43; amended 4-12-2011 ATM by Art. 32; 4-16-2014 ATM by Art. 19]

- A. The Wetland and Floodplain District is considered to be an overlay district. The District includes all special flood hazard areas within the Town of Southborough designated as Zone A and AE, on the Worcester 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 Worcester County FIRM that are wholly or partially within the Town of Southborough are Panel Numbers 25027C0654F, 25027C0658F, 25027C0659F, 25027C0662F, 25027C0666F, 25027C0667F, 25027C0668F, 25027C0669F, 25027C0678F and 25027C0686F, dated July 16, 2014. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated

herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Department of Public Works.

B. Base flood elevation and floodway data.

- (1) Floodway data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A Zones.

C. Notification of watercourse alteration. In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

(1) Adjacent communities.

(2) NFIP State Coordinator:

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

D. Reference to existing regulations.

- (1) The Floodplain District is established as an overlay district to all other districts. All development in the District, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40, of the Massachusetts General Laws and with the following:
 - (a) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR).
 - (b) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00).
 - (c) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00).

- (d) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).
 - (2) Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.
- E. Other use regulations.
- (1) 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.
 - (2) In Zones AE, along watercourses in the Town of Southborough that have a regulatory floodway designated on the Worcester 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.

§ 174-8.10. CR Critical Resource District. [Added 4-12-1993 ATM by Art. 43]

- A. Purpose. The purpose of the Critical Resource District is to ensure that lands critical to the environmental quality of the Town of Southborough are not physically developed prior to consideration of alternatives to such development.
- B. Regulations. Critical Resource Districts, as shown on the Zoning Map, shall be considered to be superimposed over any other district established in this chapter. Land in a Critical Resource District may be used as otherwise permitted in the underlying district, subject to the following:
 - (1) No density bonuses as authorized under § 174-13.2F shall be allowed for development within the Critical Resource District, but land within the district may be used to earn development bonuses for development to be located outside the district through transferring of development rights, as provided by § 174-13.2F.
 - (2) Submittals under major residential development pursuant to an optional special permit as specified in § 174-13.2A must include a flexible development proposal. **[Amended 10-7-2013 STM by Art. 9]**
 - (3) In acting on major residential development proposals pursuant to an optional special permit as specified in § 174-13.2A, if the Planning Board determines that neither the basic development

proposal before it nor any submitted alternatives can adequately protect scenic views, habitats, fragile natural environments or other critical environmental resources, it shall grant a special permit only either: **[Amended 10-7-2013 STM by Art. 9]**

- (a) Upon determination that nondevelopment alternatives for utilization of site value have been reasonably pursued and found to be infeasible, including transfer of development rights or sale of land or rights to the Town or other organization having land preservation purposes; or
- (b) Upon imposition of a stipulation that no building permit is to be issued under the special permit and no site preparation is to take place until either 120 days lapse from the date of approval or a Town Meeting has earlier acted on a proposal for acquisition of fee or rights over part or all of the premises in question.

§ 174-8.11. IWCS Wireless Communication Service District. [Added 4-15-1997 ATM by Art. 52]

- A. Purpose. The purpose of this section is to establish a district in which wireless communications services may be provided while protecting, to the greatest extent possible, public health, safety and the general welfare. Specifically, the Wireless Communications Services District has been created to protect the general public from hazards associated with wireless communications towers and minimize visual impacts from wireless communications towers on residential districts within Southborough. For the purposes of this section, "wireless communications services" shall mean the provision of the following types of services: cellular telephone service, personal communications and enhanced specialized mobile radio service. Such services, it is anticipated, will be provided via wireless communications towers, including antennas and accessory structures, if any.
- B. Location. The Wireless Communications Services District shall be located on all land owned by the Town of Southborough which is held in the care, custody, management and control of the Board of Selectmen, School Committee and Conservation Commission, and all land located in Highway Business Districts, Industrial Districts and Industrial Park Districts. The Wireless Communications Services District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.
- C. Submittal requirements. As part of any application for a permit, applicants shall submit, at a minimum, the information required for site plan approval, as set forth herein in § 174-10, as may be amended. Applicants shall also describe the capacity of the tower, including the number and types of antennas that it can accommodate and the basis for the calculation of capacity, and any accessory structures.

- D. Use restrictions. A wireless communications tower (including antennas and accessory structures, if any) may be erected in a Wireless Communications Services District upon the issuance of a special permit by the Board of Appeals pursuant to § 174-9, subject to site plan approval, as set forth herein at § 174-10, as may be amended, and subject to all of the following conditions:
- (1) To the extent feasible, all service providers shall colocate on a single tower. Towers shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten-year period) technically practicable.
 - (2) New towers shall be considered only upon a finding by the Board of Appeals that existing or approved towers cannot accommodate the wireless communications equipment planned for the proposed tower.
 - (3) In no event shall any such tower be located closer to two miles to any other such tower.
 - (4) Tower height shall not exceed 75 feet above the existing terrain.
 - (5) A tower shall not be erected nearer to any property line than a distance equal to the vertical height of the tower (inclusive of any appurtenant devices), measured at the mean finished grade of the tower base.
 - (6) To the extent feasible, all network interconnections from the communications site shall be via land lines.
 - (7) Existing on-site vegetation shall be preserved to the maximum extent practicable.
 - (8) The tower shall minimize, to the extent feasible, adverse visual effects on the environment. The Board of Appeals may impose reasonable conditions to ensure this result, including painting and lighting standards.
 - (9) Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.
 - (10) Applicants proposing to erect wireless communications towers, accessory facilities and structures on municipally owned land or structures shall provide evidence of contractual authorization from the Town of Southborough to conduct wireless communications services on municipally owned property.
- E. Nonuse. All unused towers or parts thereof or accessory facilities and structures which have not been used for two years shall be dismantled and removed at the owner's expense.
- F. Exemptions. Towers used for the purposes set forth in MGL c. 40A, § 3, are exempt from the provisions of this section.

§ 174-9. Special permit requirements. [Amended 4-14-1986 ATM by Art. 46]

In acting on applications for special permits, the special permit granting authority, whether the Board of Appeals or as otherwise designated by this chapter, shall conform to the procedural, decision-making and filing requirements of Chapter 40A of the General Laws, shall make general and, as appropriate, specific findings as provided herein or called for by the subject matter and may impose conditions, limitations and safeguards. No special permit shall issue except upon a general finding that the use sought and its characteristics shall be in harmony with the intent and purpose of this chapter, shall not be in conflict with public health, safety, convenience and welfare and shall not be substantially detrimental or offensive to the neighborhood or destructive of property values therein. In addition, the following special requirements shall apply:

- A. Decision considerations. Special permits shall be granted only if the special permit granting authority determines that the proposal's benefits to the Town will outweigh any adverse effects for the Town or the vicinity, after consideration of the following preferred qualities, among other things:
 - (1) Location.
 - (a) The proposal should be located near uses which are similar to the proposed use, or if not, the nearby uses should be ones likely to benefit from rather than be damaged by having the proposal nearby or be permanently buffered from it.
 - (b) Providing adequate water and drainage for this location should pose no special public problems.
 - (c) The site should be able to accommodate the proposal without substantial environmental damage due to wetland loss, habitat disturbance or damage to valuable trees or other natural assets.
 - (2) Activity type and mix.
 - (a) Nonresidential proposals should contribute to the diversity of services available locally.
 - (b) Residential proposals should serve housing needs of local residents.
 - (3) Visual consequences.
 - (a) Scenic views from public ways and developed properties should be considerably treated in the site arrangement and building design.

- (b) Visibility of parking and service areas from public streets should be minimized through site arrangement, and such areas should be screened from abutting premises.
 - (c) Except on Route 9 and in special circumstances, domestic scale should be maintained in the building's design through massing devices, such as breaks in wall and roof planes and through the design of architectural features.
- (4) Access.
 - (a) Access to the location should increase existing traffic by no more than 10% at any point, taking into consideration any special access provisions committed (ride-sharing, etc.).
 - (b) Pedestrian and vehicular movement to, from and within the site should be safe and convenient and arranged so as not to disturb abutting properties.
- (5) Development rate.
 - (a) Townwide, development should not outpace the ability of the Town to provide necessary off-site services, including schools, water and local road capacity.
 - (b) Development making unusually large demands on service capacities should not be allowed to preempt smaller developments from gaining a fair share of that capacity.
- B. Accessory apartments. Special permits for accessory apartments may be issued upon referral of the application and receipt and consideration of a report, or after 35 days elapse without such report, from the Board of Health, certifying that adequate provisions have been made in accordance with the requirements of the Board of Health for drainage and for the disposal of sewage and waste generated by the occupancy of the apartment, and from the Planning Board, describing the lot on which the dwelling is located, the neighborhood where it is located and the effect of the proposed apartment thereon, the adequacy of ingress and egress provisions, the recommendations of the Planning Board as to the advisability of granting the special permit and any restrictions that should be imposed as a condition thereof and the provisions for off-street parking in a manner consistent with the character of the premises. If the decision of the Board of Appeals differs from the recommendations of the Planning Board, the reasons therefor shall be stated in the decision. The accessory apartment shall comply with the following conditions and requirements: **[Amended 4-30-1990 ATM by Art. 50]**
 - (1) The habitable floor area of the accessory unit shall not exceed 25% of the habitable floor area of the entire dwelling plus that of any accessory building used for the accessory dwelling.

- (2) There is no other apartment on the lot on which the accessory apartment is proposed.
 - (3) Not more than the required minimum exterior alterations have been or will be made to the one-family house and to any accessory buildings, and the site plan of the lot and floor plans of the dwelling thereon have been filed with the Building Inspector prior to the application to the Board of Appeals.
 - (4) The total cumulative number of accessory apartments permitted by the Board of Appeals since January 1979 shall at no time exceed 5% of the total number of one-family houses in Southborough at the beginning of the year in which the application is filed, based on the Assessor's records. Residences containing apartments shall be counted as one-family houses for the purposes of this subsection.
- C. Hazardous waste facilities. Special permits for hazardous waste facilities may be issued only in BV, BH, ID, IP and SP Districts upon site assignment by the Board of Health, approval by appropriate federal and state agencies, including the Hazardous Waste Facility Site Safety Council, and the conclusion of siting processes by the Local Assessment Committee, as provided in Chapter 21D of the General Laws. In considering a special permit for such a facility, the Board of Appeals shall give due weight to the findings and comments of the Planning Board, Conservation Commission, Fire Chief, Police Chief, Metropolitan District Commission and the Local Assessment Committee, including the imposition of conditions, limitations and safeguards called for in the recommendations of these agencies. **[Amended 4-14-1986 ATM by Art. 49]**
- D. Large signs. See § 174-11E, Special permits for signs. **[Amended 4-14-1986 ATM by Art. 49; 4-8-2002 ATM by Art. 70]**
- E. Nonconforming uses, lots and structures. Special permits may be issued for the extension or alteration of legally nonconforming uses, structures and lots, including a change in the nonconforming use to another nonconforming use, provided that the Board of Appeals finds that such extension, alteration or change shall not be substantially more detrimental to the neighborhood, will not increase the extent of nonconformance in size or in impact and that the cost thereof shall not exceed 50% of the assessed value of the nonconforming structure at the time of application, and further provided that the estimate of the cost of any extension or alteration utilized by the Board of Appeals in evaluating the above specified 50% requirement of the assessed value shall not be less than a cost estimate of such extension or alteration based on a nationally recognized building cost estimate manual or system acceptable to the Zoning Board of Appeals. No special permits under this subsection shall be granted for nonconforming signs subject to Chapter 93 or 93D of the General Laws. **[Amended 4-15-2008 ATM by Art. 38]**

- F. Wetland and Floodplain District uses. Special permits may be issued for alterations, additions and new structures and uses in WFP Districts only when the following conditions are met:
- (1) The Board of Appeals finds no potential detrimental impact on the neighborhood, as provided in the lead-in of this section above.
 - (2) The application is referred to the Planning Board, the Conservation Commission and the Board of Health, and their reports are received and given due consideration, or 35 days elapse following the referral without the receipt of said reports.
 - (3) No alteration, fill, additions or new construction will occur within the floodway, as defined by the Federal Emergency Management Administration.
 - (4) The land is not, in fact, subject to flooding and not unsuitable for the purposes of the special permit due to topography, soils or hydrological conditions; if located in a floodplain, a registered professional engineer certifies that the proposed development shall not result in any increase of flood levels during the occurrence of a one-hundred-year flood and that adequate protection shall be provided against the effects of current, uplift, battering and washout.
 - (5) If the special permit is for the construction or improvement of access to existing uses or to land not in a WFP District, it must be shown that there is no feasible alternate access and that the natural flow of watercourses will not be impeded or altered.
 - (6) If the special permit is for the construction of a barn, garage or other accessory building or structure, the applicant shall prove, to the satisfaction of the Board of Appeals, that the special permit will not result in an increase of ground coverage by principal and accessory structures of more than 25%, compared to the conditions in May 1975.
 - (7) The Board of Appeals may consider compensatory storage and other mitigating measures acceptable to the Conservation Commission to meet the requirements of this Subsection F.
 - (8) If the special permit is for a dam, watercourse alteration, excavation, drainage or wetland improvements or mosquito control activities, the Board of Appeals shall consider also the broader impacts thereof and weigh any potential detrimental impacts against the benefits of the proposed improvements.
- G. Two-family dwelling. The conversion of a one-family house which has been in existence for two years or longer to a two-family dwelling is allowed by special permit from the Board of Appeals. The application will be considered after receipt of a report, or after 35 days elapse without such a report, from the Board of Health certifying that

adequate provisions have been made in accordance with the requirements of the Board of Health for drainage and the disposal of sewage and waste generated by the occupancy of the two-family dwelling. There shall also be a report from the Planning Board describing the lot on which the dwelling is located, the neighborhood where it is located and the effects of the proposed two-family dwelling thereon, the adequacy of ingress and egress provisions, any recommendations by the Planning Board as to the advisability of granting the special permit and any restrictions that should be imposed as conditions thereof and the provisions for off-street parking in a manner consistent with the character of the premises. If the decision of the Board of Appeals differs from the recommendations of the Planning Board, the reasons therefor shall be stated in the decision. The two-family dwelling shall comply with the following conditions and requirements: **[Added 4-8-1991 ATM by Art. 49]**

- (1) The lot on which a one-family residence is to be converted to a two-family dwelling must be a minimum of 15,000 square feet.
- (2) There must be no other apartment on the lot on which the two-family residence is proposed.
- (3) Not more than the required minimum exterior alterations have been or will be made to the one-family house and to any accessory buildings, and the site plan of the lot and floor plans of the dwelling thereon must be filed with the Building Inspector prior to the application to the Board of Appeals.

H. Multifamily housing for the elderly is allowed by special permit per the Schedule of Use Regulations, § 174-8. **[Added 4-8-1991 ATM by Art. 50; amended 4-15-1997 ATM by Art. 56]**

- (1) The Zoning Board of Appeals shall grant a special permit for elderly housing only after considering the following criteria:
 - (a) No development shall exceed an average per site of a maximum three units per contiguous acre exclusive of 80% of wetlands, and six bedrooms per contiguous acre exclusive of 80% of wetlands. No unit shall have more than three bedrooms; or no development shall exceed an average per site of a maximum three units per contiguous acre exclusive of wetlands, and six bedrooms per contiguous acre exclusive of wetlands. No unit shall have more than three bedrooms. Any application submitted to the Zoning Board of Appeals for a special permit for multifamily housing for the elderly prior to December 10, 1997, shall be exempt from the exclusion of wetlands when calculating the maximum number of units per site. **[Amended 12-10-1997 STM by Art. 3]**

- (b) Evidence shall be shown that, to the greatest extent possible, the development is offering to provide for the needs of Southborough residents of varying economic levels.
 - (c) The units shall have an exterior design that is consistent with the styles of the surrounding residential neighborhoods and the Town of Southborough in general.
 - (d) Wherever possible, pedestrian connection to local services should be incorporated into the site design to lessen the dependency on the automobile.
 - (e) The plan shall be designed to maximize the preservation of the natural features of the site through the use of cluster housing and/or creative site planning. Wherever possible, existing vegetation should be retained throughout the site as a natural buffer to adjacent properties.
 - (f) The proposed development shall satisfy the criteria of this section (§ 174-9) outlined in Subsection A, Decision considerations.
 - (g) The total cumulative number of units approved under this section by the Zoning Board of Appeals since January 1998 shall at no time exceed 7% of the total number of one-family houses in Southborough at the beginning of the year in which the application is filed, based on the Assessor's records. Residences containing apartments shall be counted as one-family houses for the purposes of this subsection. **[Added 4-13-1998 ATM by Art. 52]**
- (2) The granting of a special permit by the Zoning Board of Appeals for multifamily housing for the elderly does not relieve the applicant from receiving all other applicable approvals, including Conservation Commission, Board of Health, and Site Plan approval from the Planning Board (re: § 174-10).

I. Adult uses. **[Added 4-8-1996 ATM by Art. 57]**

- (1) Purpose and intent. This bylaw is enacted pursuant to MGL c. 40A, § 9A, to serve the compelling interests of the Town of Southborough by preventing the clustering and concentration of adult entertainment enterprises as defined herein because of the deleterious effect on character and values of adjacent areas.
- (2) Definitions. As used in this section, the following terms shall have the meanings indicated:

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT MOTION-PICTURE THEATER — An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

- (3) Special permit standards. No special permit may be granted by the Zoning Board of Appeals for an adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater unless the following conditions are satisfied:
 - (a) No adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater may be located less than 1,000 feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, recreational areas or another adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater. The distance of 1,000 feet shall be measured from all property lines of the proposed adult use.
 - (b) No pictures, publications, videotapes, movies, covers or other implements, items or advertising that fall within the definition of adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater merchandise or are erotic, prurient or related to violence, sadism or sexual exploitation shall be displayed in the windows of or on the building of any adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semipublic, outside such establishments.
 - (c) No special permit shall be issued to any person convicted of violating the provisions of MGL c. 119, § 63, or MGL c. 272, § 28.
- (4) All existing adult bookstores, adult video stores, adult paraphernalia stores and adult motion-picture theaters shall apply for such special permit within 90 days following the adoption of this subsection.

- (5) Any special permit granted under this section shall lapse within one-year of the date of the grant, not including the time required to pursue or await the termination of an appeal referred to in MGL c. 40A, § 17, if substantial use thereof has not sooner commenced, except for good cause, or, in the case of permit for construction, if construction has not begun within one-year of the date of grant, except for good cause.

J. Medical marijuana.²² **[Added 4-16-2014 ATM by Art. 17]**

(1) General provisions.

- (a) Purpose and intent. This section is enacted in order to serve the compelling interests of the Town to address possible public health, safety and quality of life effects related to the location and operation in the Town of a registered marijuana dispensary or any other activities permitted or related to Chapter 369 of the Acts of 2012 (an Act for the Humanitarian Medical Use of Marijuana). This bylaw establishes specific zoning regulations for the limited establishment of any registered marijuana dispensary in appropriate places and under strict conditions, for medical marijuana infused products, medical marijuana paraphernalia, and medical marijuana dispensing and cultivation (either related to a registered marijuana dispensary or the personal cultivation by qualified patients or by personal caregivers on the behalf of qualified patients). It is the intent of this section to minimize impacts on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with medical marijuana activities.
- (b) Applicability. No registered marijuana dispensary or related use shall be established except in full compliance with the provisions of the State Department of Public Health (DPH) regulations for medical marijuana as promulgated in the Code of Massachusetts Regulations (105 CMR 725) and this § 174-9J. The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted hereunder.
- (c) Special terms used in this § 174-9J shall have the meanings defined in the promulgated DPH regulations for medical marijuana (105 CMR 725.004).
- (d) Nothing in this § 174-9J shall be construed to supersede or preempt any federal or state laws governing the sale, distribution or consumption of narcotic drugs. If the application of any provision of this § 174-9J shall be

22. Editor's Note: See also Ch. 51, Marijuana or Tetrahydrocannabinol, Public Consumption of.

determined to be invalid or unenforceable, the remainder hereof shall not be affected thereby, and the provisions of this section are severable.

(2) Basic requirements.

- (a) The Board of Appeals as special permit granting authority may grant a special permit for a registered marijuana dispensary only in the Highway Business District [as identified in § 174-8.5C(14)], Industrial Park District [as identified in § 174-8.6C(15)], or Industrial District [as identified in § 174-8.7C(14)], and only upon compliance with the following requirements:

- [1] No applicant shall have been convicted of violating the provisions of Massachusetts General Laws c. 119, § 63, or c. 94C, or similar laws in other jurisdictions.
- [2] The applicant has consented in writing to a criminal background check that includes jurisdictions beyond Massachusetts.
- [3] A registered marijuana dispensary and/or cultivation activities shall only be located (i) on property that borders Route 9, and (ii) not less than 1,000 linear feet from a property line of a school, recreational facility or day-care center, or any facility in which children commonly congregate [see definitions in § 174-9J(2)(c) below] located in the Town of Southborough, and (iii) not less than 100 linear feet from a property line of a residence located in the Town of Southborough. The required distances shall be measured from all property lines of the proposed facility.
[Amended 4-12-2016 ATM by Art. 37]
- [4] Any permitted registered marijuana dispensary site shall comply with the requirements of the Town's Sign Bylaw²³ at all times and, upon penalty of special permit revocation, shall not use any advertising material that is misleading, deceptive, false, or that is designed to appeal to minors. Off-site signage or advertising in any form (including billboards) is prohibited.
- [5] No activities, products or treatment occurring within or on the premises of a registered marijuana dispensary shall be displayed in the windows or on the building thereof, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such facility or premises.

- (b) No person shall be deemed to have any entitlement or vested rights to permitting under this bylaw by virtue of having received any prior permit from the Town of any kind, including prior permitting under this bylaw.

- (c) For purposes of this § 174-9J, the following terms shall have the meanings ascribed:

DAY-CARE CENTER — Any establishment, whether public or private, that provides care for children and is licensed by the Massachusetts Department of Early Education and Care.

RECREATIONAL FACILITY — A park, playground, forest preserve, conservation area, running trail or track, hiking trail, beach, wading pool, soccer field, baseball field, football field, basketball court, hockey rink, dance or gymnastic studio, whether publicly or privately owned, to which the public has a right of access as an invitee.

SCHOOL — Any public or private educational facility that provides services to children in grades 12 or under.

- (3) Term of special permit. Any special permit issued pursuant to this § 174-9J shall be valid for a period of two years from the date of issuance. Any renewal of a special permit shall be governed by the then-existing standards and procedures set forth in this bylaw, and any regulations adopted pursuant thereto by the Board of Appeals.

§ 174-9.1. Common driveways. [Added 4-11-1994 ATM by Art. 40]

- A. Common driveways serving more than two or more detached single-family dwellings shall not be allowed in any district unless evidence can be presented to the Planning Board that a common driveway would be more beneficial to the Town than a conventional plan. The Planning Board, in considering the granting of a permit for a common driveway, must be assured the following minimum requirements have been met:

- (1) Frontage: each lot served by a permitted common driveway must have its own full required frontage on a public way.
- (2) The design of common driveways shall assure adequate access for emergency and public safety vehicles to include turnaround provision in all seasons, provide water service, if available, including hydrants, and provide adequate drainage of surface waters.
- (3) A declaration of covenants, easements and restrictions for the use and maintenance of said common driveways shall be required by the Planning Board and shall include satisfactory arrangements concerning driveway maintenance, snowplowing and restriction against future use as a public way. Said covenants, easements and restrictions shall be perpetual, run with the land and be recorded at the Registry of Deeds.

- (4) In the best interest of public safety, the Planning Board may require the common driveway to be officially named, clearly identified with appropriate signage and with all residences within the way addressed to indicate this name.
- B. The Planning Board shall act on any request for a common driveway permit within 30 days of application, in which time they will seek input from the Departments of Public Safety, Public Works, Board of Health and solicit comments from the Conservation Commission.
- C. Enforcement. To assure that the conditions of the common driveway permit are met to the greatest extent possible, the following items must be satisfied prior to the issuance of an occupancy permit for any house on the common driveway: **[Added 4-15-1997 ATM by Art. 51]**
 - (1) A Town-approved Declaration of Common Driveway, Easement and Covenant shall be signed by the buyer and filed with the Registry of Deeds. A master covenant, designed by the Planning Board, could be used.
 - (2) It would be the responsibility of the developer to provide the Inspector of Buildings with the above required documentation, including, if appropriate, an engineering report asserting that all required work has been completed per the plans and conditions approved by the Planning Board.

§ 174-10. Site plan approval. [Amended 4-8-1985 ATM by Art. 39; 4-14-1986 ATM by Art. 48; 4-13-1987 ATM by Art. 43; 4-11-1988 STM by Art. 4; 4-26-1990 ATM by Art. 41]

- A. The purpose of the site plan review procedure is to encourage a desirable and compatible character of development within the Town of Southborough and to assure safety, promote logic, imagination and innovation in the design process while complying with all zoning requirements. The requirements of this section shall be applicable to the following:
 - (1) Any nonresidential development that results in an increase in on-site parking.
 - (2) All modifications to existing development projects which fall within the applicability of the Town's regulations for parking and loading (§ 174-12) or landscaping (§ 174-13).
 - (3) Any change in use or reactivation of a facility that has not been in use for a period of two years. **[Added 4-8-1996 ATM by Art. 51]**
 - (4) Multifamily housing for the elderly. **[Added 4-15-1997 ATM by Art. 56]**
- B. Site plan review will be processed by one of the following means:

(1) Minor plan review. Any new development, or expansion in use other than a single-family or two-family residence which adds less than 2,000 square feet of floor area or which would require at least five but fewer than 20 parking spaces regardless of the number of parking spaces existing on the premises, or any change of use of a facility that totals less than 2,000 square feet shall be subject to minor plan review by the Site Plan Review Committee. The Site Plan Review Committee shall be chaired by the Town Planner and will consist of a Selectmen or its designee, Building Inspector, Highway Superintendent, Board of Health Agent, Superintendent of the Water Department, Police Chief and Fire Chief or their designee, who will meet at a regularly scheduled time and place to review plans. The Committee shall also seek the advice of the Conservation Commission in the review of all minor plan submissions. **[Amended 4-8-1996 ATM by Art. 51]**

(a) Minor plan review will require 10 copies of the site plan to be submitted to the office of the Planning Board, together with an application form and filing fee. All plans will be prepared at a scale no greater than one inch equals 40 feet on standard twenty-four-by-thirty-six-inch sheets and shall show, as a minimum:

- [1] All existing and proposed buildings, including setbacks.
- [2] Existing and proposed parking.
- [3] Driveway openings.
- [4] All property and street lines.
- [5] Existing and proposed landscaping.
- [6] Existing and proposed signs.
- [7] Surfacing, indicating treatment of all surfaces.
- [8] Location of all wetlands.
- [9] Method of sewage disposal.
- [10] Water supply.
- [11] Stormwater drainage.
- [12] Such other information as the Site Plan Review Committee may reasonably request.

(b) Any dispute arising from the minor plan review process or any plan not receiving unanimous approval from the Site Plan Review Committee shall be referred to the Planning Board for action. The Committee may also refer any site plan that, due to unusual circumstances or a unique situation, it feels should be approved by the Planning Board. All site plans sent

to the Planning Board by the Site Plan Review Committee for action will be handled through the minor plan review process.

[Amended 4-8-1996 ATM by Art. 51]

- (c) The Site Plan Review Committee shall approve, disapprove or refer to the Planning Board all submittals for minor plan review within 30 days of a completed application to the office of the Planning Board.
- (d) Where applicable, all other criteria and conditions of this section will govern minor plan review.
- (2) Major plan review. Any new development, or expansion in use other than a single-family or two-family residence which adds 2,000 square feet or more of floor area or which would require 20 or more parking spaces, regardless of the number of parking spaces existing on the premises, or any change of use of a facility that totals 2,000 square feet or more shall be subject to major plan review by the Planning Board. The major site plan submission shall consist of the following elements: **[Amended 4-8-1996 ATM by Art. 51]**
 - (a) Ownership, zoning, use and the general location of structure and topography within 300 feet of the property lines of the site or adjacent land contiguously owned with the site.
 - (b) All site features, existing or proposed, including but not limited to the following:
 - [1] Driveways, including widths.
 - [2] Parking facilities, including dimensions thereof.
 - [3] Loading facilities.
 - [4] Service areas.
 - [5] Street line, including widths.
 - [6] Roadways, including widths.
 - [7] Pedestrian walks, including widths and types of surface.
 - [8] Landscaping designation, specific plantings.
 - [9] Screening.
 - [10] Signs, including proposed sizes, mounting heights, types and drafted design.
 - [11] Lighting, including plan location and detail information, size, type and wattage.
 - [12] Surfacing, indicating treatment of all surfaces.

[13] Existing trees on the site which are a caliper of six inches or larger.

[14] Wetlands.

[15] Drainage, including detailed design data, pipe sizing, etc.

[16] Stone walls.

[17] Topography at two-foot contour intervals.

[18] Sewage disposal, including detailed design information.

[19] Water supply.

[20] Curbing.

[21] Such other information as the Planning Board may reasonably request.

- (c) The construction of the work as detailed on the site plan shall not deviate from the work shown on the approved site plan. Accordingly, the site plan shall contain a sufficient level of detail to ensure the constructability of the project. Supporting details and documentation shall be presented as part of the site plan submission.
- (3) Incomplete applications for both the minor and major review shall not be accepted by the Planning Board. Following submission of a site plan to the Planning Board, the Board or its designee shall review the plan for completeness within three business days of the submission. Completeness shall be based on the requirements of this subsection. If the submission is determined incomplete by the Planning Board or its agent, notice will be mailed to the applicant by certified mail within three business days of the submission specifying the deficiencies.
- C. The plan shall be prepared by a professional engineer, land surveyor, architect or landscape architect registered to practice in the Commonwealth of Massachusetts and shall be submitted with 11 copies to the office of the Planning Board, together with an application form and a filing fee, if any.
- D. Approval required.
 - (1) Site plan approval shall be granted upon determination by the Planning Board that the following are complied with. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Southborough Planning Board's Rules and Regulations for the Subdivision of Land and shall be so designed that for the given location and type and

extent of land use, the design of building form, building location, egress points, grading and other elements of the development shall be so as to:

- (a) Minimize the volume of cut and fill, the number of removed trees six inches in caliper and larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion and the threat of air or water pollution.
 - (b) Maximize pedestrian and vehicular safety and convenience within the site and egressing from it.
 - (c) Minimize obstruction of scenic views from publicly accessible locations.
 - (d) Minimize visual intrusion by minimizing the visibility of parking, storage or other outdoor service areas viewed from public ways or premises residentially used or zoned; minimizing glare from headlights through plantings or other screening; minimizing lighting intrusion through use of such devices as cutoff luminaires confining direct rays to the site; fixture mounting height not higher than 20 feet except adjacent to Route 9; and avoiding unreasonable departure from the character of building in the vicinity.
- (2) The Planning Board shall adopt and from time to time amend reasonable regulations for the administration of these guidelines.
- E. The Planning Board shall hold a public hearing on the application for site plan approval, with a written notice of the time and place of said hearing being given the applicant and the Board of Selectmen. The applicant is responsible for sending this notice to the certified abutters by certified mail return receipt requested, at least 10 days before the scheduled hearing. The Planning Board shall not act on the application until it has received and given due consideration to the recommendations of the Board of Selectmen or until 10 days have elapsed after the public hearing without receipt of the Selectmen's comments.
- F. The Planning Board shall act on an application for site plan approval and shall notify, in writing, the applicant, the Board of Selectmen and the Building Inspector of its action within 60 days of the receipt of the application. Failure of the Planning Board to so act and to notify the applicant within said 60 days shall constitute approval of the site plan. The actions allowed by the site plan approval are authorized for a one-year period from the date of grant thereof. The applicant shall be granted a single one-year extension by applying to the Planning Board, in writing, prior to the date of expiration. If the actions permitted are not exercised or the approval not extended, they shall lapse, and a new application notice and hearing will be required.

- G. Any person aggrieved by the action of the Planning Board on a site plan approval application may appeal said action to the Zoning Board of Appeals as provided in Article VI hereof.
- H. Minor departures from the site plan as approved may be authorized by the Building Inspector after approval of the Site Plan Review Committee if required by engineering or other circumstances not foreseen at the time of plan approval. Any change increasing the size of any building or structure, changing the location of any building, parking or access road by more than 10 feet or reducing landscaping or screening may be made only through review by the Planning Board following the same procedures as for an original submittal. Any departure must be requested, in writing, with the basis for the change given. Any change authorized shall be recorded on the file copy of the site plan with the Building Inspector's signature and the date.
- I. The removal, fill or change of grade of earth materials, including soil, loam, sand or gravel, undertaken in order to construct or locate buildings, structures and such features accessory thereto as ways, driveways, areaways, walks or parking areas, and therefore exempt from regulations under Chapter 85 of this Code, is a part of construction and development process regulated by the Zoning Chapter. Except as necessary for the construction of detached one- or two-family dwellings and of features accessory thereto, the removal, fill or change of grade of earth materials for the purposes defined above shall be subject to approval under this section. Where the commencement of removal, fill or change of grade of earth materials precedes construction by three months or more, the submission and approval of the site plan may be undertaken in two stages, with the information for the first stage limited to property boundaries, existing and proposed topography at two-foot or lesser contour intervals, the character of the soil to be removed, added or relocated, the location and depth of any service and drainage conduits or pipes and the approximate location of any existing or proposed buildings, structures or physical features accessory thereto. Each stage shall be treated as a separate site plan for the purposes of this section, and the approval of Stage 1 of a site plan shall not be construed to assure the subsequent approval of Stage 2.
- J. Compliance. The issuance of an occupancy permit will not be given prior to the satisfactory completion of all elements and conditions of the approved site plan. A temporary occupancy permit may be issued after the satisfactory completion of all items essential to public health and safety and sufficient bonding acceptable to the Planning Board is provided to the Town to cover all outstanding items.

§ 174-10.1. Village Business District plan review. [Added 4-14-1986 ATM by Art. 49; amended 4-8-1991 ATM by Art. 48]

Within the Village Business District, major site plan approval shall be by special permit from the Planning Board, subject to the procedural

requirements and decision criteria of § 174-9, Special permit requirements, and § 174-10, Site plan approval, and the following in addition to the above:

- A. Submittals must include floor plans and architectural elevations of all proposed buildings.
- B. Design shall comply with the following guidelines, except as provided at Subsection C below:
 - (1) Scenic views, if any, visible from public ways should be preserved to the degree reasonably consistent with the given type and scale of use.
 - (2) Major dimensions of any building should be approximately parallel or perpendicular to one or more nearby streets, if within 100 feet of such street.
 - (3) The appearance of primary wall and roof materials should match that of materials commonly found on existing buildings within the Town.
 - (4) Except for buildings adjacent to Route 9, domestic scale should be produced through massing devices such as breaks in wall and roof planes and through design of architectural features.
 - (5) The building should not be made, in effect, a sign, through painting with bold patterns, checks or other graphics devices or use of unconventional building form.
 - (6) There should be some element of consistency with any buildings on abutting premises facing the same street, such as consistency in eave height, wall materials or window proportions.
- C. A design may be approved despite noncompliance with one or more of the guidelines under Subsection B if one or more of the following are determined to be true.
 - (1) The proposal, despite not meeting the guidelines, is nevertheless appropriate to its context, considering the established character of the vicinity, the degree of departure of this proposal from that character and the functional or symbolic role the structure is proposed to play.
 - (2) The proposal will have minimal consequence for Town appearance because of its low public visibility, owing to obscure location or screening.
 - (3) No better compliance would be reasonably possible, taking into consideration the basic use and intensity of the proposal.

§ 174-11. Signs. [Amended 4-14-1986 ATM by Art. 41; 4-14-1986 ATM by Art. 49; 4-10-2000 ATM by Art. 57]

- A. Purpose. The Town of Southborough regulates and restricts the use of signs and other identification devices within the Town for the purpose of:
- (1) Promoting public safety and convenience of the streets and roads, sidewalks and other pedestrian spaces, public property and private property within public view;
 - (2) Preserving for the present and future inhabitants the natural, architectural and historical assets and other qualities which distinguish the Town as a highly desirable community;
 - (3) Protecting business viability, economic opportunity, property values, educational values, aesthetic integrity, Village character, creativity and community appearance by exercising prudent control; and
 - (4) Encouraging compatibility and harmony with surrounding buildings, land and land uses.
- B. Definitions. As used in section (§ 174-11), the following words and terms shall have and include the following meanings:

AGRICULTURAL SIGN — A sign which has wording that may be changed periodically to advertise products raised or grown principally on the premises.

AWNING SIGN — Any and every sign displayed on an awning or canopy. An "awning" or "canopy" is any device, fixed or retractable, of any material, which extends over or otherwise covers a sidewalk, courtyard, walkway, eating area, driveway or other area or space, whether that area or space is intended for pedestrians, vehicles or other purposes.

BANNER — Any and every sign whatever the nature of the material or manner of composition, message or design, frequently displayed on a pole or staff which can be freestanding or attached to a building or structure, and temporary or removable in nature. Official flags of governmental jurisdictions properly displayed shall not be considered as banners or otherwise considered as signs for the purposes of this Zoning Bylaw.

BUSINESS ESTABLISHMENT — Each separate place of business whether or not consisting of one or more buildings.

FACADE OF THE BUSINESS ESTABLISHMENT — That portion of the building wall facing a street or containing a public entrance, which corresponds to the height and width of the interior space rented or owned by the tenant of the business establishment.

HEIGHT — The maximum vertical distance measured from the finished grade to the highest point of the sign or its supporting structure, whichever is higher.

INTERNALLY ILLUMINATED SIGN — Each and every sign which utilizes translucent panels, canvas or other fabric, letters, devices

including gas-filled luminous tubes or other similar components to create an image by allowing light to pass through.

LEGAL NONCONFORMING SIGN — Any nonconforming sign legally erected prior to the adoption of this section, or any amendment thereof.

MOVING SIGNS — Any and every sign any part of which moves, is designed to move or to be moved, by any means.

ROOF SIGN — Any and every sign located above, or projecting above, the apex of the roof or the top of a parapet wall of any building, or which is painted or otherwise attached or affixed to a roof.

SIGN — Any letter, word, symbol, drawing, picture, design, device, article or object that advertises, calls attention to or indicates any premises, persons, products, businesses or activities or that conveys or is intended to convey any message whatever the nature of the material and manner of composition or construction. (Historical date plaques and markers approved by the Historical Commission and flags and insignias of governmental jurisdictions shall not be considered signs except when displayed for the purpose of commercial promotion.)

STANDING SIGN — Any and every freestanding sign erected on or affixed to the land and includes any and every sign that is not attached to a building.

TEMPORARY SIGNS — Any and every sign which by its design and/or use is temporary in nature, frequently composed of paper, posterboard and/or cardboard or other material attached so as to be visible through windows and glass doors or otherwise displayed on a property, typically containing messages relative to sale, lease, rental or construction of property, garage or yard sales and similar occasional uses, special sales, bazaars, dinners or other events.

TRAFFIC SIGNS — Any sign limited solely to directing traffic within or setting out restrictions on the use of parking areas.

TRAILER OR VEHICLE SIGNS — For the purposes of this sign bylaw, a vehicle, motor vehicle or self-propelled vehicle shall be considered and regulated as a sign when or under such circumstances any such vehicle is not engaged in the usual business or work of the owner or lessee but is used for advertising purposes.

WALL SIGN — Any and every sign attached to a building and not considered to be a roof sign or window sign.

WINDOW SIGN — Any and every sign consisting of individual letters or graphics painted or otherwise similarly affixed directly to, or hanging behind, the glass surface of a window or door and designed to be visible from the outside of any building.

C. General provisions.

- (1) Permit not required. The following types of signs do not require a permit from the Inspector of Buildings:

- (a) Signs not exceeding four square feet in area and bearing only property numbers, or names of residents of premises.
 - (b) Flags and insignia of any government, except when displayed in connection with commercial promotion.
 - (c) Legal notices, identification information or direction signs erected by governmental bodies.
 - (d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
 - (e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
 - (f) In accordance with MGL c. 94, § 295C, standard gasoline fuel pump signs on service station fuel pumps bearing thereon in usual size and form the name, type and price of the gasoline.
 - (g) Open/closed signs not exceeding two feet by three feet; one per business.
 - (h) Open flags, not exceeding three feet by five feet and not containing any promotional logos or advertising; one per business.
 - (i) Temporary signs.
- (2) Basic requirements, all districts.
- (a) The only signs allowed in the Town of Southborough are signs that advertise, call attention to or indicate the person occupying the premises on which the sign is erected or maintained or the business transacted thereon or that advertise the property itself or any part thereof as for sale or rent and which contain no other matter.
 - (b) Billboards and similar signs are specifically prohibited.
 - (c) Flashing, moving, changing message and animated signs are prohibited.
 - (d) No sign may be illuminated between 10:00 p.m. and 6:00 a.m. except signs identifying police or fire stations or businesses open to serve the public on site.
 - (e) "No hunting, fishing, etc.," signs exceeding one square foot are prohibited.
 - (f) Permits. No sign shall be erected or altered on the exterior of any building or on any land unless and until application for the erection or alteration of such sign has been filed with the Building Inspector, with such information and drawings as he

may require, and permit for the erection of the sign has been issued by him.

- (g) No sign may depict or represent any sexual conduct or state of sexual excitement as defined in MGL c. 272, § 31, nor shall any such representations or depictions be placed upon or within the windows or walls of the premises so as to be visible to the public from the exterior of the premises.
 - (h) Banners, pennants, streamers, ribbons, spinners and other moving, fluttering, revolving or changing devices and strings of lights shall not be used as signs or parts thereof, provided that lights may be used as part of a religious celebration not connected to commercial promotion, and further provided that banners or similar devices may be used for temporary political signs.
- (3) Illumination of signs. Illumination shall be by white, steady, stationary light shielded and directed solely (or by silhouette) at the sign. The foregoing is applicable to signs exterior to a building and to permanent interior signs designed to be visible through a door or window. No sign may utilize translucent panels, canvas or other fabric, letters, devices or other similar components to create an image by allowing light to pass through, except for businesses fronting on Route 9. The light, whether internal or illuminating the sign from the outside, shall not be placed, directed or arranged so as to throw a beam of light, glare or reflection on any street or highway, walk or nearby properties of others in such a manner as to create a traffic hazard or nuisance. Illuminated signs are prohibited in residential and conservation districts.
- (4) Maximum number of signs allowed. Unless otherwise provided herein there shall be not more than two of the four following types of signs: wall, window, standing or awning for each business establishment with the following exceptions:
- (a) If a business establishment has more than one public entrance at street level there may be additional signs at each such entrance, other than the wall to which the principal sign is attached. Such signs shall not exceed 15 square feet or 10% of the facade of the business establishment, whichever is less. If a business establishment consists of more than one building, a secondary sign, not exceeding 15 square feet or 10% of the facade of the business establishment, whichever is less, may be affixed to a wall of each such building, not including the building to which the principal sign is attached.
 - (b) In addition to the foregoing sign or signs, one directory of the business establishments occupying a building may be attached to the exterior wall of the building at each public entrance to the building. Such directory shall not exceed an area

determined on the basis on one square foot for each establishment occupying the building or six square feet in total area, whichever is less.

- (5) Maximum area of signs allowed. For purposes of determining the maximum size limitations, any intermediary removable surface to which a sign is attached shall be deemed part of the sign; and any sign composed of separate letters, numbers or symbols cut into or attached to a wall or painted on or otherwise attached to an awning, canopy or window shall be deemed to the extreme limits of the sign. A two-sided sign, with messages on opposite sides (back-to-back), will be deemed to be one sign; a sign with faces at an angle to each other shall be deemed to consist of several signs, one for each direction faced. The sum of the areas of wall, window and awning signs of a business in the aggregate shall not exceed the lesser of the following two amounts:
 - (a) Ten percent of the facade of the business establishment.
 - (b) Fifty square feet in districts fronting on streets other than Route 9, or 75 square feet in districts fronting on Route 9.
- (6) Nonconforming signs. Any legal nonconforming sign may continue to be maintained but shall not be enlarged, reworded, redesigned or altered in any way unless it is brought into conformity with these requirements. Any such sign which has been destroyed or damaged to such an extent that the cost of restoration would exceed 35% of the replacement value of the sign at the time of the destruction or damage shall not be repaired or rebuilt or altered unless in conformity with this section. The exemption herein granted shall terminate with respect to any sign which:
 - (a) Shall have been abandoned for six months or more;
 - (b) Advertises or calls attention to any products, businesses or activities which have not been carried on or sold for six months or more; or
 - (c) Shall not have been repaired or properly maintained within 60 days after notice to that effect has been given by the Inspector of Buildings.
- (7) Construction and maintenance. No sign shall be painted or posted directly on the exterior surface of any wall or roof. All signs must be painted, posted or otherwise securely attached to a substantial intermediary removable surface which shall be securely attached to the building. The foregoing, however, shall not prevent installation of a sign consisting of individual letters or devices securely attached to the building. The material and construction of any sign and intermediary surface and the manner of attaching the sign to the intermediary surface and the intermediary surface to the wall of the building shall be in accordance with applicable

provisions of the State Building Code. All signs, together with their structural elements, shall be kept in good repair and in proper state or preservation to the reasonable satisfaction of the Inspector of Buildings. The Inspector of Buildings may order the removal of any sign that is not maintained in accordance with the provisions of this Zoning Bylaw.

- (8) Roof signs. No sign shall be erected or maintained on the roof of any building or structure in any district.
- (9) Standing signs. No standing sign shall be erected if, in the opinion of the Building Inspector, it creates a safety hazard to vehicular or pedestrian traffic.
- (10) Wall signs. A wall sign shall be parallel to or perpendicular to a wall of the building and shall not project beyond the face of any other wall of the building, or above the top of the wall to which attached. A wall sign shall not project more than one-foot, in the case of a sign parallel to the wall, or four feet in the case of a sign perpendicular to the wall, from the face of the wall to which attached, provided that in no case shall a perpendicular sign project into, on or over a public sidewalk, street or way.
- (11) Temporary signs. Temporary signs shall be removed promptly after the sale, event or reason for the sign message has been concluded. Temporary signs shall not be maintained for more than a thirty-day period, except as may be otherwise specifically provided below, as determined by the Inspector of Buildings, unless proper sign permits have been obtained. A temporary sign erected for the purpose of the sale, lease, rental or construction of real estate is not subject to the thirty-day display limitation but shall be removed promptly after such sale, lease, rental or construction has been effected or completed. Temporary signs pertaining to construction shall not be erected prior to the commencement of work.
- (12) Traffic signs. The regulations contained herein shall not apply to traffic signs not exceeding four square feet in area.
- (13) Gasoline filling stations and garages. Gasoline filling stations and garages may, if they elect to do so, divide the principal sign area to which they are entitled into separate signs attached to and parallel to the wall to which the principal sign may be attached and indicating the separate operations or departments of the business; provided, however, that the total size of the separate signs shall not exceed the maximum size permitted under this section for a single exterior sign on such wall. Signs displayed on structural canopies over gasoline pumps or gasoline pump islands shall be regulated as wall signs.
- (14) Agricultural signs. One sign not to exceed 32 square feet shall be allowed and the wording may be changed periodically to advertise products raised or grown principally on the premises.

(15)Awning signs. The following provisions shall apply to all awning signs:

- (a) Awning signs may only be located at the first floor level and must be painted on or attached flat against the surface of the awning or canopy and shall not extend beyond the valance or any other part of the awning or canopy nor be attached to or displayed on the sides or underside;
- (b) The area of an awning sign shall not exceed 25% of the surface area of the awning or canopy eligible for placement of signs;
- (c) Awning signs shall not be back lit or internally illuminated; and
- (d) Awning signs shall not be used in combination with wall signs except as provided below. An awning sign which consists of letters only, not more than eight inches in height and includes no other form of graphic, logo or symbol; and is located only on the valance of the awning or canopy and no other sign, graphic, logo or symbol is displayed on the awning or canopy; and does not occupy more than 50% of the horizontal length of the valance of the awning or canopy shall not be subject to the limitations of Subsection C, General Provisions, Subsection (4), Maximum number of signs allowed, and Subsection (5), Maximum area of signs allowed.

D. Sign regulations. (See notes at end of this Subsection D.)

| Sign Type | Maximum Height (feet) | Maximum Area | Maximum Number |
|-----------------------------------------------------------------------------------------------------------|--------------------------------------|--------------------------------------------|---------------------------|
| Residential, ¹ Conservation Districts, Research, Scientific and Professional District | | | |
| Standing or wall | 6 | 4 sq. ft. | 1 per lot |
| Temporary | 6 | 6 sq. ft. | 1 per lot |
| Business Village District | | | |
| Standing | 10 | 25 sq. ft. | 1 per building |
| Wall | 15 | 25 sq. ft. | 1 per business |
| Awning | — | 25% of awning or canopy ² | 1 per business |
| Temporary | 10 | 15 sq. ft. | 1 per building |

| Sign Type | Maximum Height (feet) | Maximum Area | Maximum Number |
|-------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------------------------|-----------------------|
| Highway Business, Industrial, Industrial Park Districts fronting streets other than Route 9 | | | |
| Standing | 15 | 75 sq. ft. | 1 per lot |
| Wall | 20 | 50 sq. ft. | 1 per business |
| Window (permanent) | — | 10 sq. ft. ³ | 1 per business |
| Awning | | 25% of awning or canopy ² | 1 per business |
| Temporary window | | 25% of window ⁴ | |
| Temporary | 10 | 25 sq. ft. | 1 per lot |
| Highway Business, Industrial, Industrial Park Districts fronting Route 9 | | | |
| Standing | 25 | 100 sq. ft. | 1 per lot |
| Wall | 20 | 75 sq. ft. ² | 1 per business |
| Window (permanent) | | 10 sq. ft. ³ | 1 per business |
| Awning | | 25% of awning or canopy ² | 1 per business |
| Temporary window | | 25% of window ⁴ | |
| Temporary | 10 | 25 sq. ft. | 1 per lot |
| Municipal, state, federal or private educational institution, religious institution within a Residential District | | | |
| Standing | 6 | 10 sq. ft. | 1 per lot |
| Wall | 15 | 10 sq. ft. | 1 per building |
| Awning sign | | Not allowed | |
| Temporary | 6 | 12 sq. ft. | 1 per lot |

NOTES:

¹ Residential development within other districts in Town must comply with the sign regulations for residential district.

² Or 10% of the total area of the facade of the business establishment, whichever is less.

³ Or 10% of the total area of exterior area of exterior windows of the business establishment excluding doors, whichever is less.

⁴ Paper or posterboard only. Such signs shall not be placed on any window with a permanent window sign.

E. Special permits for signs.

(1) The Board of Appeals shall consider requests for special permits in accordance with §§ 174-9, 174-11 and 174-25 of this Zoning Bylaw. The Board of Appeals may grant a special permit for a sign not meeting limitations of sign height, maximum number of signs allowed, illuminations of signs, maximum area of signs allowed and minimum setback; provided, however, that the sign is otherwise in compliance with the provisions of this section. In no case, however, shall approval be granted for:

- (a) A wall sign which exceeds in height the top of the wall;
- (b) A sign in a Residential District, except that a special permit may be granted for a sign at a legal nonconforming use.
- (c) A standing sign in districts other than Residential, Conservation, Research, Scientific and Professional Districts:

[1] Which exceeds in height:

- [a] Fifteen feet in the Business Village Districts.
- [b] Twenty feet in districts other than Business Village Districts fronting on streets other than Route 9.
- [c] Twenty-five feet in districts other than Business Village Districts fronting on Route 9.

[2] Or exceeds in area:

- [a] Thirty-five square feet in the Business Village Districts.
- [b] Seventy-five square feet in districts other than Business Village Districts fronting on streets other than Route 9.
- [c] Two hundred square feet in districts other than Business Village Districts fronting on Route 9.

- (d) A wall sign in districts other Residential, Conservation, Research, Scientific and Professional Districts which exceeds in area:
 - [1] Thirty-five square feet in Business Village Districts.
 - [2] Seventy-five square feet in districts other than Business Village Districts fronting on streets other than Route 9.
 - [3] One hundred square feet in districts other than Village Business Districts fronting on Route 9.
- (2) The Board of Appeals will not act on any special permit or variance application without first receiving a written report from the Planning Board. A favorable report of the Planning Board shall indicate that:
 - (a) Sign scale is determined to be in reasonable relation to development scale, viewer distance and travel speed and sign sizes on nearby structures.
 - (b) Sign size, shape and placement serves to define or enhance architectural elements of the building such as columns, sill lines, cornices and roof edges and do not unreasonably interrupt, obscure or hide them.
 - (c) Sign design is in harmony with other signage on the same or adjacent structures and provides reasonable continuity in mounting location and height, proportions and materials.
 - (d) Sign materials, colors, lettering style, illumination and form are reasonably compatible with building design, neighborhood context and use.
 - (e) Sign size, location, design and illumination are not judged to present a safety hazard to vehicular or pedestrian traffic. An unfavorable report of the Planning Board shall indicate which of the above criteria were not met and shall state what modifications to the sign or signs could be made to render a favorable report.

§ 174-12. Parking and loading regulations. [Amended 4-8-1985 ATM by Art. 36; 4-14-1986 ATM by Art. 47; 4-26-1990 ATM by Art. 43]

- A. General requirements. There shall be provided off-street parking and loading facilities in accordance with the requirements of this section on the same lot as the use to which they are accessory, except that parking for nonresidential uses may be provided on a contiguous lot in the same ownership and zoning district as the lot on which the principal building or use is located. The Building Inspector shall interpret and apply the requirements for parking and loading spaces. Loading or parking layout

for nonresidential uses shall be shown on and approved as part of a site plan under the provisions of § 174-10.

B. Surfacing. Required vehicular use areas shall be paved with bituminous concrete unless serving a single-family dwelling. An alternative surface may be approved by the Planning Board upon its determination that drainage, erosion, siltation, dust and appearance will be satisfactorily controlled. Where an alternative to bituminous concrete is authorized by the Planning Board, the following shall be complied with:

- (1) Access drives shall be paved with bituminous concrete or other pavement authorized by the Planning Board for at least 15 feet inside of the street or property line unless the street itself is not paved.
- (2) Grading and materials selection shall assure that surface materials will not be carried into the street and that drainage is positively provided for.
- (3) If there are eight or more parking spaces there shall be provisions for identifying individual spaces through use of segmented bumper strips or other similar permanent means.

C. Dimensional requirements.

- (1) Loading. Each loading space shall be not less than 10 feet in width, 14 feet in height and of such length that a truck or trailer occupying the space shall be entirely in the loading space and shall not project into any street, vehicular accessway or pedestrian walk. The loading space may use common access driveways and aisles with parking spaces, where such access is adequate for both purposes. If located within 50 feet of a residence district or if used frequently at night, loading spaces shall be enclosed. Loading spaces shall not be located within the required front yard.
- (2) Parking. Each parking space shall be at least 9 1/2 feet wide and 18 feet long, exclusive of aisles and maneuvering space; for parking at right angles to a central aisle, the width of the aisle shall not be less than 22 feet, and an equal width shall be provided at each end of a row of parking spaces; for angle or herringbone parking at 45° or 60° and one-way circulation, the width of aisles shall be consistent with the dimensions recommended by the Institute of Transportation Engineers, provided that for parking facilities for more than five cars, the total area shall be not less than 300 square feet times the number of parking spaces. Unobstructed access to and from a street shall be provided and shall not require backing out into a street. Two or more nonresidential uses may share a combined facility, provided that its continued availability is assured and the total number of spaces equals or exceeds the number required by this section. The number of parking spaces required by the Architectural Barriers Board located nearest to and to both sides of the entrance of a building used by the public and/or by

employees shall be reserved for the exclusive use of handicapped persons and shall be identified by appropriate signs at each parking space and by the wheelchair symbol painted within each such parking space. Up to 25% of parking spaces dedicated to use by employees or occupants and not by the general public and up to 15% of such spaces for use by customers, visitors or general public may be reduced to not less than 17 feet by eight feet and marked as being reserved for compact cars only.

- D. Loading requirements. Not fewer than the number of loading spaces indicated in the following table shall be provided:

| Floor Area of Building or Structure (square feet) | Retail Trade, Wholesale Trade, Storage, Manufacturing | Consumer Service Offices, Hotels, Institutions, Dormitories, Other Nonresidential Uses |
|--------------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| 5,000 to 15,000 | 1 | 0 |
| 15,001 to 50,000 | 1 | 1 |
| 50,001 to 100,000 | 2 | 1 |
| 100,001 to 150,000 | 3 | 2 |
| 150,001 to 300,000 | 4 | 3 |
| Each additional 100,000 over 300,000 | 1 additional | |
| Each additional 200,000 over 300,000 | 1 additional | |

- E. Parking requirements. Off-street parking spaces shall be provided according to the following schedule, and not more than 25% of the required parking spaces, other than for dwellings, shall be located in the required front yard.

- (1) Dwellings: two spaces for each dwelling unit containing one or two bedrooms, three spaces for each dwelling unit containing three or more bedrooms, plus one space for each 80 square feet of floor area devoted to a customary home occupation or a professional use.
- (2) Hotels, motels, board or rooming houses and other places providing overnight accommodations: one space for each room accommodation, plus one space for each two employees, plus one space for each 400 square feet of public meeting area and restaurant.
- (3) Restaurants and other places serving food or beverages: one space for each three seats, plus one space for each employee, provided that drive-in establishments shall instead provide one space for

each 50 square feet of gross floor area, plus one space for each two employees.

- (4) Schools and colleges: two spaces per classroom for elementary and intermediate; 2 1/2 spaces per classroom for secondary, and one space per two students beyond secondary; none to be fewer than one space per teacher and staff.
- (5) Banks and libraries: one space for each 250 square feet of floor area in public use, plus one space for each 500 square feet of other gross floor area.
- (6) Hospitals, nursing homes, homes for the aged. Hospitals: one space per bed; nursing homes: one space per two beds; homes for the aged: one space per 1 1/2 units.
- (7) Theaters, membership clubs and places of amusement, recreation and assembly (public or private): one space per four seats.
- (8) Retail stores and consumer service establishments: one space for each 150 square feet of gross floor area, exclusive of storage space.
- (9) Gasoline service stations: two spaces for each lubrication pit, lift or bay, plus one space for each employee.
- (10) Warehouses: one space for each 1,500 square feet of gross floor area.
- (11) Medical and dental offices: one space per 200 square feet gross floor area.
- (12) Industry, processing, manufacturing, assembly and research and development: one space for each 300 square feet of floor area, plus space for company-owned trucks and vans and the required loading spaces.
- (13) All other offices and nonresidential uses: 3 1/2 spaces for each 1,000 square feet of gross floor area.
- (14) Temporary reduction in the number of paved parking spaces. Whenever new or increased off-street parking spaces are required to be provided on premises subjected to a site plan review and approval by the Planning Board under the provisions of § 174-10 hereof and if, in the opinion of the Planning Board, based on evidence presented by the applicant, the full number of parking spaces will not be needed for at least three years, the Planning Board may, in its approval of the site plan, temporarily reduce the number of parking spaces paved, designated, striped and graded, subject to the following requirements: **[Amended 4-8-1991 ATM by Art. 47]**
 - (a) The Planning Board shall have the right to review the temporary reduction every three years or whenever evidence

is presented to it that such review is warranted and shall have the right to require the paving and development of additional parking spaces up to the full number required by this chapter.

- (b) The applicant shall be required to provide the entire area called for by this chapter and shall landscape, plant with grass or shrubbery and maintain as open space any part thereof not needed for parking.
- (c) In no case shall the number of parking spaces developed, paved, marked and available for parking be less than 60% of the total number of such spaces called for by this chapter, and no cars shall be parked on undeveloped reserved land, except in an emergency. The areas to be developed and paved and to be temporarily held as landscaped open space shall be clearly identified on the site plan, and their location and layout shall be consistent with § 174-10B, C and D. Anyone required to provide at least 12 parking spaces and wishing to take advantage of this temporary reduction provision shall proceed in accordance with the provisions of this subsection and of § 174-10 hereof, even though not otherwise subject to its requirements.

F. Egress.

- (1) Any driveway likely to carry more than 200 trips per average business day must comply with the following unless the Board of Appeals grants a special permit for an alternative configuration, upon its determination that safety will be adequately protected, based on commonly employed engineering standards:

| | On Route 9 | Other Locations |
|-----------------------------------------------------------------------------|-------------------|------------------------|
| Exiting vehicle unobstructed sight distance at edge of traveled way | 500 feet | 200 feet |
| Driveway center-line separation from other driveways serving 200 plus trips | 300 feet | 100 feet |
| Driveway center-line separation from intersecting street sideline | 150 feet | 50 feet |
| Maximum driveway width unless greater width justified by engineered design | 24 feet | 18 feet |
| Curb radius | 50 feet | 25 feet |
| Acceleration/deceleration lanes required | Yes | No |

- (2) No existing parcel shall be divided into lots with frontage which would preclude meeting the driveway separation requirements, unless access rights-of-way are deeded to enable shared egress.

§ 174-12.1. Outdoor illumination. [Added 4-11-2005 ATM by Art. 40]

- A. Purpose. This section recognizes the benefits of outdoor lighting and provides clear guidelines for its installation, so as to help maintain and complement Southborough's character. The intent of this section is to encourage lighting that provides safety, utility and security: prevent glare on public roadways; protect the privacy of residents; promote energy-efficient outdoor lighting; limit the total allowable illumination of lots located in the Town of Southborough; and to reduce atmospheric light pollution. Appropriately regulated, and properly installed, outdoor lighting will contribute to the safety and welfare of the residents of Southborough.
- B. Applicability. Outdoor illumination by flood or spot luminaries rated at 900 lumens or more (which is approximately equal to one sixty-watt incandescent light bulb) or by any other luminaires rated at 1,800 lumens or more (which is approximately equal to one one-hundred-twenty-watt incandescent light bulb) shall be subject to the provisions of this section, with the following exceptions: emergency lighting; hazard warning; temporary decorative or holiday lighting or public roadway illumination. It shall also not apply to any luminaire intended solely to illuminate any freestanding sign, flag or the walls of any building, but such luminaire shall be shielded so that its direct light is confined to the surface of such sign, flag or building.
 - (1) The replacement of existing fixtures shall be subject to the provisions of this section; however, the replacement of existing nonconforming lamps or fixtures with the same or lower output nonconforming lamps or fixtures is exempted.
 - (2) The Planning Board, in performing review pursuant to § 174-10, Site plan approval, may determine that special circumstances of the site, context or design make an alternative lighting design at least equally effective in meeting the purposes of this section and, in such cases, may modify the requirements of this section.
- C. Definitions. For the purposes of this section, the following terms shall be defined as indicated below. Although set forth here for convenience, the terms shall have the same effect as if in § 174-2 of this Bylaw.

FIXTURE — The assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens or diffuser lens.

FULL CUTOFF — A luminaire designed with an opaque shield surrounding and extending below the lamp, such that no direct light is emitted above a horizontal plane.

GLARE — Light emitted from a luminaire with intensity great enough to produce annoyance, discomfort or a reduction in a viewer's ability to see, and in extreme cases causing momentary blindness.

LAMP — The component of a luminaire that produces the actual light.

LIGHT TRESPASS — The shining of direct light produced by a luminaire beyond the boundaries of the lot on which it is located.

LUMEN — A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For purposes of this bylaw, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

LUMINAIRE — A complete lighting system, including a lamp or lamps and a fixture.

- D. Exterior lighting plan. Applications subject to the provisions of § 174-10, Site plan approval, shall submit a lighting plan which shall include the following information, except to the extent waived by the Planning Board. All other lighting not subject to the provisions of said § 174-10 does not require a lighting plan but shall meet the standards as set forth in this section, unless as may otherwise be provided herein. The lighting plan shall include the following information:
- (1) Location, orientation and type of outdoor luminaire, including the height of the luminaire, both existing and proposed;
 - (2) Luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles, as well as a description of all illuminating devices, fixtures, lamps, supports, reflectors, both existing and proposed; this may include, but is not limited to, catalog cuts and illustrations by manufacturers;
 - (3) Type of lamp, such as metal halide, compact fluorescent, high pressure sodium;
 - (4) Photometric plan showing the intensity of illumination expressed in footcandles at ground level within the interior of the property and at the property boundaries;
 - (5) Evidence that the plan complies with light trespass restrictions as set forth herein.
- E. Flickering and flashing lights. No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing.
- F. Wall-mounted fixtures. In nonresidential districts, a luminaire attached to the exterior of a building or structure for area lighting shall be mounted no higher than 15 feet above grade and shall be shielded to control glare. "Wal-pac" lighting fixtures are prohibited.

- G. Pole-mounted fixtures. Pole-mounted exterior lighting fixture types are defined and restricted as follows:
- (1) Type A: no light cutoff.
 - (2) Type B: luminaire shielded such that peak candlepower is at an angle of 75° or less from straight down, and essentially no light is emitted above the horizontal.
 - (3) Type C: luminaire shielded such that total cutoff is at less than 90° from straight down, and no light source is in direct view of an observer five feet above the ground at any point off the premises.
- H. Pole-mounted fixtures height limitation. Illustrations of pole-mounted exterior lighting fixture types are shown in Chart I herein. Pole-mounted fixtures shall not exceed the applicable pole-mounted height limitation set forth in Chart II in any district. The Type A pole-mounted exterior lighting fixture is prohibited in all nonresidential districts, unless equipped with shields.

CHART I. ILLUSTRATIONS

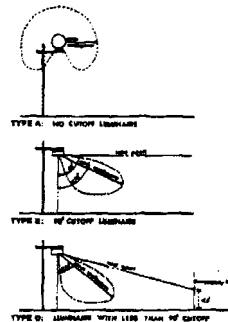


CHART II. POLE MOUNTING HEIGHT LIMITATIONS

Maximum Luminaire Mounting Height

(feet above grade)*

"District" is that in which fixtures are located.

District

| | Residential | Nonresidential |
|----------------|-------------|-------------------------------|
| Fixture Type A | 10 | Not allowed (unless shielded) |
| Fixture Type B | 15 | 20 |
| Fixture Type C | 20 | 20 |

* Note: Feet above grade refers to the overall average grade of the area being illuminated.

- I. Ceiling-mounted fixtures. In nonresidential districts, luminaires mounted on an exterior ceiling such as under a canopy shall be

mounted with the refractor or lens flush with or recessed in the ceiling or fixture.

- J. Lighting levels. Any luminaire with a lamp or lamps rated at a total of 1,800 lumens or more (which is approximately equal to one one-hundred-twenty-watt incandescent light bulb) and all flood or spot luminaires rated at 900 lumens or more (which is approximately equal to one 60-watt incandescent light bulb) shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire. If any spot or flood luminaire rated 900 lumens or less is directed or focused such as to cause direct light from the luminaire to be cast toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions. The Planning Board reserves the right to limit and regulate the amount of illumination on a project site between the hours of 10:00 p.m. and 6:00 a.m., while understanding the need for safety and security lighting.
- K. Light trespass limitations. There shall be no light trespass by a luminaire beyond the property boundaries of the lot on which it is located, except as within a street right-of-way for which there shall be no limit.

§ 174-13. Landscaping. [Amended 4-14-1986 ATM by Art. 42; 4-26-1990 ATM by Art. 42; 4-9-2001 ATM by Art. 64; 4-11-2005 ATM by Art. 39]

A. Purpose and applicability.

- (1) Purpose. The purpose of this section is to preserve and protect the community's ecological resources and to improve the appearance, environment, character, and value of the total community; and to protect nearby properties, thereby promoting the public health, safety and general welfare. It is intended to establish minimum standards for the design of landscapes for all land development projects requiring Planning Board approval. This section also ensures that any development will make landscaping an integral part of that plan.
- (2) Applicability. The requirements of this section shall apply as specified below to any new building, addition, or change of use in an existing structure that requires a parking increase of five or more spaces, or is subject to site plan review by the Planning Board. In performing site plan review under § 174-10, the Planning Board may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils and other site conditions, provided that equivalent screening, shading and articulation are achieved.

- (3) Exceptions. The requirements of this section do not apply to developments or renovations in the Business Village District. However, the Planning Board may require landscaping as part of the site plan or special permit application within the Business Village District.

B. Landscape standards and specifications.

- (1) All submissions for projects subject to this section shall include a comprehensive landscape plan and planting schedule.
- (2) The developer shall furnish and install all plant materials listed on the approved landscaping plan.
- (3) Plant materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock, which is published by the American Association of Nurserymen.
- (4) Shade trees must be a minimum of three inches in caliper six inches above grade, be of a species common in the area and be ones which reach an ultimate height of at least 30 feet. Ornamental trees must be a minimum of eight feet at the time of planting. (Eight feet from the top of the root ball to the top of the tree). Shrubs must be at least 36 inches in height at the time of building occupancy, reach an ultimate height of at least five feet and be of a species common in the area.
- (5) Do not use staking materials unless absolutely necessary. If staking is necessary, then the developer/property owner must remove staking materials after one full growing season.
- (6) Property owners ensure the survival and health of required trees. If any plant material dies, the property owner must replace it within 180 days.
- (7) All plant materials required by this chapter shall be maintained in a healthful condition. Any and all fences required for screening shall be properly maintained.
- (8) All planting areas shall be mulched with a three- to four-inch layer of bark mulch or other similar material to cover the complete planting area. However, in no case shall more than 25% of the planting area be strictly bare mulch.
- (9) A permanent water supply system, or other acceptable watering method, shall be provided for all planting areas. In order to protect the Town's water supply, and encourage sound landscaping practices, the Town of Southborough recommends sustainable watering systems, such as: rainwater recycling systems, automatic shut-off devices, drought-tolerant native plant material, and careful irrigation scheduling, among others.
- (10) Plantings.

- (a) Plantings shall consist of at least one tree per 40 linear feet of planting area length, except one tree per 20 linear feet of street planting area abutting Route 9, and at least one shrub per three feet. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular to the area and shall be located wholly within the lot.
- (b) Applicants are encouraged to specify salt-tolerant species for street trees to prevent early plant loss due to winter road salt.
- (c) Invasive plants, as defined by the Massachusetts Invasive Plant Group, are "plants that have spread into native or minimally managed plant systems in Massachusetts. These plants cause economic or environmental harm by developing self sustaining populations and becoming dominant and/or disruptive to those systems." (Under this definition all synonyms, species, subspecies, varieties, forms, and cultivars of that species are included unless proven otherwise by a process of scientific evaluation.) The Town of Southborough encourages the use of native species in all landscaping plans. Please note that many of the invasive species listed below have native counterparts that could be considered.
- (d) The following invasive species of plants are prohibited from being planted:

| | |
|------------------------------------------------------------------------|-----------------------------------------------------|
| <i>Ailanthus altissima</i> | Tree of heaven |
| <i>Berberis thunbergii</i> | Japanese barberry |
| <i>Celastrus orbiculatus</i> | Asian or, Asiatic bittersweet, oriental bittersweet |
| <i>Elaeagnus umbellata</i> | Autumn olive |
| <i>Frangula alnus</i> | European buckthorn, glossy buckthorn |
| <i>Lonicera x bella</i> Zabel [<i>morrowii</i> x <i>tatarica</i>] | Bell's honeysuckle |
| <i>Lonicera japonica</i> | Japanese honeysuckle |
| <i>Lonicera morrowii</i> | Morrow's honeysuckle |
| <i>Lythrum salicaria</i> | Purple loosestrife |
| <i>Phragmites australis</i> (Cav.) Trin. ex Steud. | Common reed |
| <i>Rhamnus cathartica</i> | Common buckthorn |
| <i>Robinia pseudoacacia</i> | Black locust |
| <i>Rosa multiflora</i> | Multiflora rose |
| <i>Acer platanoides</i> | Norway maple |

| | |
|---------------------|-----------------|
| Acer pseudoplatanus | Sycamore maple |
| Euonymus alatus | Burning bush |
| Ligustrum species | Privet |
| Spiraea japonica | Japanese spirea |

- C. Street planting area. Street planting is required for all nonresidential premises. Street plantings at the front of lots shall contribute to the creation of an impression of a separation of the street and the developed area of the site without necessarily eliminating visual contact between them. Street plantings adjoining or facing residential uses or residential zoning districts shall provide the strongest possible visual barriers between uses at the pedestrian level and a sense of separation. A landscaped buffer strip shall be a minimum of 15 feet in depth. The Planning Board may reduce or modify this requirement if, in their judgment, strict compliance would create a substantial hardship due to existing conditions such as lot size, location of existing buildings, or environmental conditions. Also refer to Subsection H, Existing vegetation.
- D. Side and rear line planting area. A landscape buffer strip a minimum of 10 feet in width shall abut all side and rear property lines.
- E. Vehicular use area plantings. All new or expanded parking lots of five or more spaces shall be required to comply with this section. If an existing parking lot is expanded or improved to increase the number of spaces by five or more, it shall comply with this section within the expanded or improved portion.
- (1) Trees shall be planted at a rate of two shade trees or three ornamental trees for every 10 spaces or fraction thereof.
 - (2) Required trees shall be located within or adjacent to parking lots as tree islands, medians, and at the end of parking bays, traffic delineators, or between rows of parking spaces in a manner such that no parking space is located more than 60 feet from a tree.
 - (3) Planting areas within parking areas shall provide a minimum of 81 square feet per tree with a minimum inside dimension of nine feet and a minimum prepared depth of 18 inches.
 - (4) The exterior perimeter of all vehicular use areas shall be planted with a buffer strip at least five feet in width, excluding accessways. Any vehicular use area abutting a lot that is residentially used or zoned shall be planted with a buffer strip at least 10 feet in width and shall be supplemented with an opaque fence or wall at least six feet high, unless there is vegetation sufficiently dense to effectively obscure vision. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area and to assure safe patterns of internal circulation.

Ratios of Parking Spaces to Trees**(choose one column of trees only)**

| # of Parking Spaces | # of Shade Trees | or # of Ornamental Trees | or # of Mixed |
|--------------------------------|---------------------------------|-----------------------------------------|----------------------|
| 10 | 2 | 3 | 3 |
| 15 | 3 | 5 | 4 |
| 20 | 4 | 6 | 5 |
| 25 | 5 | 8 | 6 |
| 30 | 6 | 9 | 7 |
| 35 | 7 | 11 | 8 |
| 40 | 8 | 12 | 9 |
| 45 | 9 | 14 | 10 |
| 50 | 10 | 15 | 11 |
| 55 | 11 | 17 | 13 |
| 60 | 12 | 18 | 14 |
| 65 | 13 | 20 | 15 |
| 70 | 14 | 21 | 16 |
| 75 | 15 | 23 | 18 |
| 80 | 16 | 24 | 19 |
| 85 | 17 | 26 | 20 |
| 90 | 18 | 27 | 21 |
| 95 | 19 | 29 | 23 |
| 100 | 20 | 30 | 24 |

(5) To determine the number of trees needed for a number of parking spaces not shown on the chart above, use the following formulas (choose one only):

- (a) Shade trees: number of spaces x 20%.
- (b) Ornamental trees: number of spaces x 30%.
- (c) Mix of both: number of spaces x 25%.

F. Zoning district boundary planting area. A landscaped buffer strip, a minimum of 20 feet in width, is required on any nonresidential premises along the full length of any boundary abutting property that is residentially used or zoned, except that in the Industrial Park District (IP) the buffer strip shall be a minimum of 50 feet in width. The buffer strip shall contain existing vegetation and/or plantings that are sufficiently dense to adequately screen adjacent residential properties.

- G. Berms. When berms are used to meet the requirements for a buffer strip, they shall be planted with living vegetation. The minimum top width shall be five feet with a minimum slope of 3:1. In no case shall more than 25% of the berm planting area be strictly bare mulch or non-living material.
- H. Existing vegetation. Wherever possible, the above requirements shall be met by retention of existing plants. If located within 25 feet of a street, no existing tree of six inches in caliper or greater (measured four feet above grade), dense hedgerow of four or more feet in both depth and height or existing earth berm providing similar visual screening shall be removed or have grade changed more than one-foot unless dictated by public health, access safety or identification of the premises.
- I. Exceptions. Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low level plantings which will visually define the street edge or property line may be authorized, provided that proposed buildings are also designed and located to preserve that scenic view.
- J. Site distance restrictions. When an accessway intersects a public street or another access way, required plantings shall conform to the requirements of unobstructed site distance as outlined in the parking and loading regulations (§ 174-12F).
- K. Nonconforming landscaping and screening.
 - (1) Any improvement along the property boundary, including landscaping, screening and fencing, legally erected and conforming to the requirement of this chapter when so erected, may continue to be maintained, even though as a result of changes to this chapter the boundary improvements no longer conform to its requirements, provided that such boundary improvements shall not be enlarged, redesigned or altered except so as to make them conform to said requirements, and further provided that any such boundary improvements which have been destroyed or damaged to such an extent that the cost of restoration would exceed 50% of the replacement value of the boundary improvements at the time of destruction or damage, shall not be repaired, rebuilt or altered, except so as to make said boundary improvements conform to the requirements of this chapter.
 - (2) The exemption for nonconforming landscaping and screening herein granted shall terminate with respect to any boundary improvements which shall:
 - (a) Have been abandoned; or
 - (b) Not have been repaired or properly maintained for at least 60 days after written notice to that effect has been given by the Building Inspector.

§ 174-13.1. Concept plans. [Added 4-14-1986 ATM by Art. 46]

- A. Applicability. Any use which is designated in § 174-8 as being subject to this article requires concept plan approval by Town Meeting prior to being acted upon for special permit approval. Approval shall be by two-thirds' vote of the Town Meeting and may be made with conditions or limitations. Special permits shall then be required and shall be approved by the special permit granting authority only upon determination by that authority that the proposal is consistent with the approved concept plan or, in the event of an inconsistency, that the departure is necessitated by changed conditions or earlier error and that the inconsistency does not result in less beneficial development, based on the considerations of Subsection B below.
- B. Considerations. Compliance of the proposal with the considerations of § 174-9, Special permit requirements, shall be reported to the Town Meeting by the Planning Board and shall be the basis for subsequent special permit approval.
- C. Procedures.
 - (1) Submittals. Five copies of the concept plan shall be filed with the Planning Board.
 - (2) Concept plan contents. A concept plan should consist of the following:
 - (a) A schematic development plan, indicating boundaries of the lot, buildings, roads, drives, parking, reserved open space, existing topography and proposed grading, areas of retained vegetation and proposed planting areas, and a locus plan showing relation to nearby streets, zoning district boundaries and water bodies.
 - (b) Floor plans and elevations of all existing and proposed structures.
 - (c) Materials indicating the proposed ultimate floor area in each use; time schedule for development; service improvements proposed at the developer's and those anticipated at the Town's expense.
 - (d) An estimate of peak hour trips on to and off of the site.
 - (e) Analysis indicating degree of consistency with each of the considerations of § 174-9, Special permit requirements.
- D. Pre-Town Meeting hearing. Prior to Town Meeting action, the Planning Board shall hold a public hearing on the concept plan with timing, notice and procedures the same as those required for a hearing on a Zoning Bylaw amendment. The Planning Board shall report its recommendation to the Town Meeting, with a copy of the concept plan

and the recommendation to be filed with the Town Clerk not less than 14 days prior to the Town Meeting vote on the concept plan.

- E. Special permit. Application for an initial special permit must be made not more than 12 months after the Town Meeting approval of the concept plan.

§ 174-13.2. Major residential development. [Added 4-14-1986 ATM by Art. 36; amended 4-14-1986 ATM by Art. 38; 4-13-1987 ATM by Art. 42; 4-30-1990 ATM by Arts. 48, 49; 4-8-1991 ATM by Art. 53; 4-10-1995 ATM by Art. 45]

A. Applicability.

- (1) Special permit option. Major residential development, that is, the creation of eight or more lots or construction of eight or more dwelling units within an eight-year period from or on a property or set of contiguous properties in common ownership as of January 1, 1986, is allowed either (at the applicant's option): **[Amended 4-15-2004 ATM by Art. 45; 10-7-2013 STM by Art. 9]**
 - (a) With a special permit from the Planning Board, as indicated in § 174-8, Schedule of Use Regulations, with applicants applying under this section required to concurrently file the application with the Southborough Housing Opportunity Partnership Committee (SHOPC); or
 - (b) By right, commonly referred to as "conventional" development [and without the flexible development option available only with the special permit option in Subsection A(1)(a) above], provided that the plan conforms to the State Subdivision Control Law, to other applicable state and Town laws and regulations, to the recommendations of the Board of Health and to the Planning Board's regulations relative to the subdivision of land.
- (2) Repetitive subdivision and phasing of large properties. **[Amended 4-10-2006 ATM by Art. 43]**
 - (a) Land outside a major residential development. Where a by-right subdivision of fewer than eight lots (that is, a development under the threshold size for a major residential development) is first created on one portion of a property, thereby leaving another portion of the same property remaining undeveloped, and if the applicant later desires to subdivide this remaining portion thereby creating eight or more lots overall within the eight-year period [as described in Subsection A(1) above], then the applicant may do so by applying for a special permit for a major residential development for the remaining portion. On large properties to

be developed in phases, the applicant may apply for more than one special permit with no time limit.

- (b) Lots inside a major residential development. Lots created inside a major residential development, and made a part of the development, may not be further subdivided within eight years except by amending the original special permit.
- (3) Flexible development option for small properties. Except as provided below, a development creating fewer than eight units does not require approval of a special permit, because it is below the threshold size. However, if an applicant wants to take advantage of this section's special features (such as flexible development) for a development of fewer than eight lots, then the applicant may do so by applying for a special permit. In this case, all requirements of this section shall apply as if the development was a major residential development, with one exception, that affordable housing shall not be required under Subsection E. **[Amended 4-10-2006 ATM by Art. 43]**
- (4) Exceptions. The above requirements shall not be applicable if the lots are restricted from residential use.
- (5) Subdivision approval. Subsequent to, or in conjunction with the granting of the special permit, compliance with the rules and regulations regarding the subdivision of land must be met.²⁴
- B. Objectives. The objectives of the special permit for a major residential development are to:
 - (1) Allow for greater flexibility and creativity in the design of residential developments.
 - (2) Encourage the permanent preservation of open space, agricultural and forestry land and other natural resources.
 - (3) Maintain the Town of Southborough's traditional New England rural character and land use pattern in which small villages contrast with open space and farmland.
 - (4) Encourage more affordable and diverse housing types.
 - (5) Protect scenic vistas.
 - (6) Preserve unique and significant natural and historical resources.
 - (7) Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.
 - (8) Encourage a less sprawling form of development.

- (9) Encourage the development of passive and active recreation facilities. **[Added 4-12-1999 ATM by Art. 65]**
- C. Application requirements. The application requirements for the special permit for a major residential development are as follows:
- (1) Preliminary meeting. Prior to filing an application, the applicant shall meet with the Planning Board in order to promote better communication and avoid misunderstanding.
 - (2) Intent of alternative plans. Applications for a special permit for major residential development shall include two plans: a conventional plan and a flexible plan. The intent of this section is to approve the flexible plan wherever appropriate because the flexible plan is, in general, more capable than the conventional plan of meeting the objectives listed in Subsection B, as well as the design criteria listed in Subsection G(2). The purpose of the conventional plan is simply to establish the total number of lots or units allowed on the site, without bonuses, and consequently the number of lots allowed in the flexible plan, as provided in Subsection D(1).
 - (3) Submission materials. Applicants for major residential development shall file with the Planning Board seven copies of the following, prepared by an interdisciplinary team, including a registered land surveyor, a professional engineer and a registered architect or landscape architect:
 - (a) Plans. The conventional and flexible plans described above, conforming to the information requirements for a preliminary subdivision plan under subdivision regulations of the Planning Board.²⁵
 - (b) Natural conditions. Such plans shall also indicate:
 - [1] Topography, both existing and proposed.
 - [2] Existing wetland boundaries, which shall be delineated by registered professionals qualified under MGL c. 131, § 40, and/or Chapter 170, Wetlands Protection.
 - [3] Any critical areas, scenic views and vistas, as specified in Subsection F.
 - (c) Sewage disposal.
 - [1] If septic systems are proposed, then the submission shall include the results of soil evaluations and percolation tests at the rate of one every five acres, but in no case fewer than five per major residential development. Soil evaluations shall be located to the satisfaction of the Planning Board so as to indicate the buildability of areas

25. Editor's Note: See Ch. 244, Subdivision of Land.

proposed either for development or for bonused reservation under Subsection F.

[2] If alternative sewage treatment systems are proposed, then the applicant shall meet with the Board of Health prior to submission to the Planning Board, in order to establish the submission requirements of the Board of Health for such a system.

(d) Comparative analysis. A written statement as to which of the two plans (conventional or flexible) is preferred by the applicant. In addition, a brief written comparison of the impacts of a flexible development plan versus a conventional development plan. This comparison should discuss the specific site characteristics which make the preferred plan the best development option, (in the opinion of the applicant), based on the design criteria for major residential development in Subsection G(2).

(e) Other information. Any additional information necessary to make the determinations and assessments cited in Subsections F and G.

D. The Planning Board may authorize flexible development within a major residential development, with reduced requirements for the area and frontage of individual lots not having frontage on an existing public way, provided that the following are complied with: **[Amended 4-8-1996 ATM by Art. 52]**

(1) Number of lots or units. The number of lots or units, excluding any bonus lots or units allowed under Subsection F, shall not exceed the number of lots in the conventional plan which shall be in full conformance with zoning, subdivision regulations and health codes. The Planning Board shall consider the recommendations of the Board of Health, the Conservation Commission and the Department of Public Works of the Town of Southborough in making said determination.

(2) General design criteria. Refer to Subsection G(2).

(3) Shape and dimension of lots. Provisions in § 174-8, Schedule of Use Regulations, governing the shape and dimensions of lots, shall apply when calculating the number of lots allowed in a conventional plan, as required by Subsection D(1) above. However, these provisions shall not apply when creating new lots within a flexible plan, unless otherwise specified in this section. The dimensional requirements for flexible lots are specified in Subsection D(4) below.

(4) Single-family requirements. The following provisions shall only apply to detached single-family dwellings on their own individual lots. Where more than one detached single-family dwelling is on the

same lot (for example, single-family condominiums), then they shall be treated as multifamily dwellings for the purpose of this section, and they shall be governed by the provisions of Subsection D(5) below.

(a) Site with individual septic systems on each lot.

- [1] Lot area. In order to ensure adequate lot area for individual septic systems, the minimum lot area shall be 2/3 of the minimum required in § 174-8, Schedule of Use Regulations, for each zoning district.
- [2] Lot frontage. The minimum lot frontage in all zoning districts shall be 80 feet, except as follows. Lots located on the turnaround of a dead-end street shall have a minimum frontage of 50 feet, provided that a front building line is designated on the plan for such a lot, and also provided that the width of the lot at this building line is at least equal to the minimum frontage requirement.
- [3] Front yard. Front yards shall be staggered to provide a variety in size of such yards. In all zoning districts, the minimum average of all front yards shall be 25 feet; however, no front yard shall be less than 20 feet.
- [4] Side yard. The minimum side yard shall be 20 feet in the Residence A District and 10 feet in all other districts; provided, however, that dwellings on abutting lots shall be no closer than 30 feet which may be accomplished by staggering or other means.
- [5] Rear yard. In all zoning districts the minimum rear yard shall be 40 feet or 30 feet if backing up to common open space.
- [6] Setback lines. The front, side and rear setback lines shall be shown on the definitive subdivision plan.
- [7] Open space. In all zoning districts, a minimum of 10% of the overall site area shall be preserved in a natural state, exclusive of wetlands, and 25% overall shall be dedicated as common open space.
- [8] Common areas. Refer to Subsection G(2) for design criteria for common areas.

(b) Site with alternative sewage treatment systems. Based upon the reduced need for land on each lot if individual septic fields are no longer required and the benefits of consolidating this land into common preserved open space, the Planning Board may, at its discretion, approve the following:

- [1] Lot area. The minimum lot area shall be 1/3 of the minimum required in § 174-8, Schedule of Use Regulations, for each zoning district. The reduction in lot area shall not be used to increase the total number of lots permitted in the overall site. All the site area saved through reduction in lot area shall be dedicated as common land or dedicated to the Town.
 - [2] Lot frontage. The minimum lot frontage in all zoning districts shall be 65 feet, except as follows: Lots located on the turnaround of a dead-end street shall have a minimum frontage of 50 feet, provided that a front building line is designated on the plan for such a lot, and also provided that the width of the lot at this building line is at least equal to the minimum frontage requirement.
 - [3] Yards. The minimum yard dimensions shall be the same as for lots with septic systems, as provided under Subsection D(4)(a) above.
 - [4] Setback lines. The front, side and rear setback lines shall be shown on the definitive subdivision plan.
 - [5] Open space. In all zoning districts, a minimum of 20% of the site area shall be preserved in a natural state, exclusive of wetlands, and 35% overall shall be dedicated as common open space.
 - [6] Common areas. Refer to Subsection G(2) for design criteria for common areas.
- (5) Multifamily requirements. The Planning Board may authorize inclusion of multifamily dwellings within a flexible development, subject to the following, unless authorized as housing for the elderly under § 174-9H. Where more than one single-family detached dwelling is on the same lot, (for example, single-family condominiums), they shall be treated as multifamily dwellings for the purpose of this section and governed by the provisions of this subsection.
- (a) Number of dwelling units. The number of dwelling units allowed shall be governed by the provisions of Subsection D(1). More than one structure may be allowed on a lot. § 174-8C(2) shall not apply.
 - (b) Types of units. To assure internal diversity and continuity with surrounding development, single-family dwellings (whether on their own individual lots or on a shared lot) are required within a multifamily development. Not more than 2/3 of the dwelling units on any parcel developed subject to these provisions shall be in multifamily dwellings containing two or more units. (Note: Housing for the elderly is not governed by this section.)

- (c) Layout of buildings. To maintain the visual scale of the community, each multifamily dwelling unit shall have its own exterior entrance; there shall be not more than four dwelling units in any structure, and the multifamily structures shall be clustered in groups, with not more than 16 dwelling units in any group. Buildings within groups shall normally be separated from each other by not less than twice the required side yard, and there shall be not less than 1,000 feet separation between dwellings in any such group and any other multifamily dwellings on or off the premises, unless the Planning Board authorizes a reduction of up to 1/3 in such requirements, upon its determination that doing so serves the objectives of the bylaw.
- (d) Visual buffers. Visual separation from nearby premises shall be assured through providing yards of double the usually required dimension between any multifamily structure or parking area for six or more cars and the boundaries of the major residential development, and through having any exterior lighting shielded and mounted not more than 15 feet high.
- (e) To assure environmental benefit from the compact development which multifamily development facilitates, the site area which shall be preserved in a natural state, exclusive of wetlands, shall be a minimum of 10% and shall increase in direct proportion to the percentage of multifamily units, up to a maximum requirement of 20% preserved area. In addition, a minimum of 35% overall shall be dedicated as common open space. Where appropriate, open space not to be preserved in its natural state shall be utilized for recreation to serve the needs of the Town. **[Amended 4-12-1999 ATM by Art. 65]**

E. Affordable housing. **[Amended 4-15-2004 ATM by Art. 45]**

- (1) Provision of affordable units.
 - (a) Number of units to be provided. All developments including a residential component which are subject to this section shall be required to set aside a minimum of 12.5% of the total number of dwelling units provided as affordable housing.
 - (b) Fractions. If, when applying the percentage to the total number of units to determine the number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if 1/2 or greater, shall be rounded up to the next whole number. If the resulting number of affordable units includes a fraction of a unit less than 1/2, the fraction shall be rounded down to the next whole number.
 - (c) Sale, lease or rental of units to low-income households. Units set aside for sale, lease or rental to low-income households

shall be restricted for occupancy by qualified households that meet the definition of "low-income" set forth in this bylaw.

- (d) Affordability of rental and ownership units. Affordable rental and ownership units shall serve low-income households.
 - (e) Relationship to the affordable housing inventory. It is intended that the affordable housing units serving low-income households that result from this bylaw be considered as local initiative units in compliance with the requirements of the Commonwealth of Massachusetts Department of Housing and Community Development, as required for the ten-percent statutory requirement under MGL c. 40B. A "low-income household" is defined as having a total household or family income between 51% and 80% of the median income for the Boston Standard Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development, or by a similar federal agency created to replace it, as adopted by the Commonwealth of Massachusetts Department of Housing and Community Development.
 - (f) Relationship to public funding programs. Developers may participate in public subsidy programs and still meet the requirements of this section. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program as well as those required by this section. In case of conflicting price limitations, the lower price requirement shall prevail.
 - (g) Relationships to other organizations. Subject to the approval of the Southborough Housing Opportunity Partnership Committee and the applicable subsidizing agency, developers may elect to work with a local nonprofit housing provider, such as the Southborough Housing Authority, to distribute, maintain or operate the units in accordance with the requirements and intent of this section.
- (2) Affordability requirements.
- (a) Duration of affordability. Affordable units shall be subject to restrictions that to the extent legally possible shall preserve the permanent affordability (in perpetuity) of the units as defined by this bylaw, but in no case shall be fewer than 50 years.
 - (b) Maximum rental price. Rents for the affordable units, excluding utilities (heat, water, electricity), shall not exceed 30% of the targeted annual gross household income, as determined by the Commonwealth of Massachusetts Department of Housing and Community Development. Specific prices shall be determined by the state or federal funding

source, if applicable, and are subject to approval by the Southborough Housing Opportunity Partnership Committee.

- (c) Maximum sales price. Housing costs, including monthly housing payments, principal and interest payments, real estate taxes, and insurance, shall not exceed 30% of the targeted gross household income. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Southborough Housing Opportunity Partnership Committee.
 - (d) Resale prices. Subsequent resale prices shall be determined based on a percentage of the median income at the time of resale as determined by the federal Department of Housing and Urban Development and adopted by the Commonwealth of Massachusetts Department of Housing and Community Development. The resale price will be established based on a discount rate, which is the percentage of the median income for which the unit was originally sold. The method of resale price calculation shall be included as part of the deed restriction. Through agreement between the Southborough Housing Opportunity Partnership Committee and the developer or owner, this percentage may be increased or decreased by up to 5% at the time of resale, in order to assure that the target income groups' ability to purchase will be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller.
 - (e) Marketing plan. The affordable units must be rented or sold using marketing and selection guidelines approved by the Southborough Housing Opportunity Partnership Committee, and in accordance with state guidelines.
 - (f) Preference for Town residents and persons employed within the Town. Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than 70% of the affordable units shall be initially offered to, in order of preference:
 - [1] To employees of the Town of Southborough for at least five years;
 - [2] Current residents of the Town of Southborough who have resided in the Town for a minimum of five years and/or persons who, although not currently residents of the Town, have previously resided in the Town of Southborough for a minimum of five years in the last 15 years.
- (3) Development standards.

- (a) Location of affordable units. Affordable units shall be dispersed throughout the development so as to ensure a true mix of market-rate and affordable housing.
 - (b) Comparability. Affordable units shall be to the extent possible externally indistinguishable from market rate units in the same development. Affordable units should be comparable to market rate units in terms of location, quality, character, and room size.
 - (c) Unit size. Except as otherwise authorized by the Southborough Housing Opportunity Partnership Committee, affordable units shall contain one or more bedrooms. The mix of unit sizes among the affordable units shall be proportionate to that of the development as a whole.
 - (d) Rights and privileges. The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development.
- (4) Incentive. To facilitate the objectives of this section, modifications to the dimensional requirements in the applicable zoning district shall be permitted for projects subject to the requirements of this section. The modifications shall be permitted as set forth below.
- (a) Density bonus. The minimum lot area per dwelling unit normally required in the applicable zoning district shall be reduced by that amount necessary, upon approval, to permit up to three additional units in the project for each one affordable unit as required in Subsection E(1) above.
- (5) Alternative methods of affordability.
- (a) This section mandates that affordable units shall be provided on-site. However, in certain exceptional circumstances the Planning Board may, at the formal written request of the developer, consider an alternative method of compliance. In granting such authorization, the Town must find that the developer has demonstrated that building the required affordable units on-site would create a significant hardship, or that such alternate method of compliance is in the best interests of the Town. A "significant hardship" shall be defined as being of such significance that the property cannot physically accommodate the required affordable units and/or related requirements, such as height, setbacks, or parking. Hardship shall not be considered due to financial or marketing consideration. To have such a request considered, the burden of proof shall be on the developers, who must make full disclosure to the Planning Board of all relevant information. Approval of alternate methods of compliance shall be only for the methods described below.

- (b) Except as set forth below, affordable units provided through an alternate method shall comply in all other respects with the requirements of this bylaw. The incentives described in Subsection E(4) are not available to development proposals in which the requirements of this section are met using the cash contribution method of compliance.
- (c) The following alternative methods of compliance, in order of preference by the Town, may be considered by the Town in rare, exceptional circumstances:
 - [1] Off-site location. With authorization by the Planning Board as described above, affordable units may be constructed by the developer on an alternate site. The alternate site must be suitable for residential development and must be within the Town of Southborough, and must add to the Town's stock of affordable housing units. Off-site units shall be comparable in quality, size and type to the market-rate units being created, and of a number no fewer than the number of units that would have otherwise been provided on-site. Affordable off-site units allowed by this bylaw may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling units contained in the structure. Off-site units shall be subject to the same construction schedule as otherwise required if on-site as set forth in Subsection E(6)(c).
 - [2] Cash contribution. With authorization by the Planning Board as described above, developers may make a cash payment to the Town to be used only for the purposes of providing housing affordable to low-income households as defined by this bylaw.
 - [a] For ownership developments, the financial contribution for each affordable unit shall be equal to the full purchase price of an affordable unit for a four-person low-income household as defined by this bylaw and in accordance with the regulations and policies of the Department of Housing and Community Development. In order to include the value of the land, the financial contribution for each affordable unit shall also include an amount equal to the current year's assessed value of the land divided by the total number of units proposed, multiplied by the total number of affordable units.
 - [b] For rental units, the financial contribution for each affordable unit shall be equal to the difference between the average market rental price for the market-rate units in the subject development and the

rent affordable to a four-person low-income household as defined by this bylaw, calculated over a term of 10 years. In order to include the value of the land, the financial contribution for each affordable unit shall also include an amount equal to the current year's assessed value of the land divided by the total number of units proposed, multiplied by the total number of affordable units.

[c] Prior to the issuance of a final occupancy permit for any portion of the project, the contribution shall be payable in full, or a written agreement approved by the Planning Board and SHOPC must be recorded and filed with the Town Treasurer.

(d) Administration of funds. Funds donated to the Town in accordance with the provisions outlined in MGL c. 44, § 53A, shall be restricted solely for the creation of affordable housing, located in the Town of Southborough, and as defined by this bylaw. The funds shall be kept in a separate account by the Town Treasurer. The Town Treasurer shall deposit the funds in a bank or invest the same in securities as are legal under the law of the Commonwealth of Massachusetts. Any interest earned shall be credited to and become part of the fund. Any moneys conveyed to the Town in accordance with this subsection shall be expended only with approval of the majority of Town Meeting.

(6) Enforcement.

(a) Legal restrictions. Affordable units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent levels and sales prices of such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the Southborough Housing Opportunity Partnership Committee and Town Counsel. All condominium documents and fees shall be subject to review and approval by the Southborough Housing Opportunity Partnership Committee and Town Counsel.

(b) Timing of commitments. All contractual agreements with the Town and other documents necessary to ensure compliance with this subsection shall be executed prior to and as a condition of the issuance of any approval required to commence construction.

(c) Timing of construction. As a condition of the issuance of approval under this subsection, the Southborough Housing Opportunity Partnership Committee may set a time schedule for the construction of both affordable and market-rate units.

No certificate of occupancy shall be issued for any market-rate units in a development subject to the requirements of this subsection until 25% of the affordable units required to be constructed have been issued a certificate of occupancy. No certificate of occupancy shall be issued to more than 75% of the market-rate units until 100% of the affordable units required to be constructed have obtained a certificate of occupancy.

- (7) Severability. In case any paragraph or part of this section should be for any reason declared invalid or unconstitutional by any court of last resort, every other paragraph or part shall continue in full force and effect.
- (8) Exempt areas. Development within a Critical Resource District (§ 174-8.10) shall be exempt from the requirements of this section.

F. Bonused development. **[Amended 4-15-2004 ATM by Art. 45]**

- (1) Discretionary bonus. The Planning Board may also authorize up to an additional ten-percent increase based on the following criteria, unless the Board explains in its decision why unusual circumstances cause the Board to act otherwise:
 - (a) Middle-income units. For units designed for households having incomes not exceeding 140% of the median family income for the Boston Region, as estimated by the HUD Regional Economist:
 - [1] Bonus: One added lot or unit for each middle-income unit, provided that the following requirements are met.
 - [a] Continuing affordability. The units shall be assured of continuing affordability for middle income households, for not less than 10 years.
 - [b] Local preference. The provisions of Subsection (E)(2)(f) applicable to affordable units shall also apply to middle-income units.
 - (b) On-site preservation of critical areas. For land otherwise eligible to be credited towards lot area but not so credited and either restricted under a conservation restriction or deeded to the Town, if that land is determined by the Planning Board to be of critical importance for retention in an undeveloped state such as the following:
 - [1] Land within 200 feet of existing major roads.
 - [2] Land across which there are important scenic views from publicly accessible points.
 - [3] Land of special habitat or ecological value and fragility.

[4] Bonus: one added lot or dwelling unit for each lot which could reasonably be expected to be developed in the restricted area under a conventional plan in full conformance with zoning, subdivision regulations, and health codes. In making this determination, the Planning Board shall seek the advice of the Conservation Commission and Board of Health.

(c) Off-site preservation of critical areas. For land in Southborough not contiguous with the parcel to be developed, whether in the same ownership or not, if made part of the flexible development application and to be preserved under a conservation restriction or deeded to the Town, if the Planning Board determines that the land is of critical importance for retention as provided under Subsection F(2)(b) above, and that the land being developed is not of critical importance for retention:

[1] Bonus: one added dwelling unit for each dwelling unit which could reasonably be expected to have been developed on the restricted parcel under a conventional plan in full conformance with zoning, subdivision regulations and health codes.

[2] Critical resource bonus. In the case of land within the Critical Resource District proposed to be restricted, added dwelling units (which must be outside the district) shall equal double the number reasonably expected on a conventional plan for the restricted land.

G. Decision.

(1) Procedure. The procedure for approval shall be as follows:

(a) Approval of flexible plan. The Planning Board shall approve or approve with conditions a special permit for major residential development for the flexible plan, provided that the Board determines that the flexible plan is at least as beneficial to the Town as the conventional plan, based upon the considerations established under § 174-9, Special Permit Requirements, and Article IV of Chapter 244, Subdivision of Land, and the design criteria listed Subsection G(2) below.

(b) Approval of conventional plan. Only if the Board determines that the conventional plan is more beneficial to the Town than the flexible plan shall the Board approve major residential development for the conventional plan, provided that it meets all requirements of this section.

(c) Denial of both plans. Only if the Board determines that the flexible plan is not a good-faith design or that the more

beneficial plan does not conform to the requirements of this section shall the Board disapprove both plans.

- (2) General design criteria. The specific design requirements in each of the prior subsections shall be met. In addition, when evaluating the plans, the following general criteria shall be considered by the Planning Board as indicating design appropriate to the natural landscape and meeting the objectives of major residential development:

(a) Layout of open and common land.

- [1] The maximum number of lots or units shall be contiguous to the common land.
- [2] Common land shall be arranged to protect valuable natural environments, such as streams, valleys, outstanding vegetation or scenic views.
- [3] The common land shall be reasonably contiguous and coherent.
- [4] If the tract of land abuts adjacent common land or other permanently protected open space, then the common land shall be connected with such adjacent common land and with such permanently protected open space.
- [5] Where appropriate, and not detrimental to the natural features of the site, open space shall be utilized for recreation to serve Town needs. **[Added 4-12-1999 ATM by Art. 65]**

(b) Ownership, maintenance and use restrictions on common land and facilities.

- [1] The ownership and maintenance responsibilities of all private and/or common areas and facilities (including but not limited to open space, recreational facilities, roads and sewer treatment plants, if any) shall be subject to approval of the Planning Board, and in the case of sewer treatment plants, subject to the approval of the Board of Health.
- [2] Private roads, if allowed by the Planning Board, shall be designed to the standards specified in Chapter 244, Subdivision of Land.
- [3] Open land, if any, unless conveyed to the Town of Southborough, shall be covered by a recorded restriction enforceable by the Town of Southborough, provided that such land shall be kept in open space.

(c) Buffer areas and view protection.

- [1] Buffer areas shall be preserved and maintained to minimize conflict between residential and other uses.
- [2] Buffers of natural vegetation shall be preserved or created adjacent to wetlands and surface waters.
- [3] Scenic views and vistas shall be protected.

(d) General site layout.

- [1] The elements of the site plan (lots, buildings, circulation, common land, landscaping, etc.) shall be arranged favorably with existing natural topography, streams and water bodies.

(e) Circulation.

- [1] Street appearance and capacity shall be protected by avoiding development fronting such streets.
- [2] The street system shall provide for safe and convenient movement of vehicles on and off the site and shall be designed to contribute to the overall aesthetic quality of the development.
- [3] The pedestrian circulation system shall be designed to assure that pedestrians can move safely and easily on the site and between properties and activities within the site and neighborhood.
- [4] Private roads, if any: refer to Subsection G(2)(b) above.

- (3) Subdivision approval. The granting of a special permit for a major residential development shall in no case be construed as an approval under Chapter 244, Subdivision of Land.
- (4) Subsequent changes. Subsequent to granting the special permit and approval of a definitive plan of subdivision, the Planning Board may permit, without initiating a new special permit proceeding, the relocation of lot lines within the development; change in the layout of streets; change in the use, ownership and layout of the common land; or change in any other conditions stated in the original special permit. The Planning Board shall require a new special permit if it determines that the proposed changes are substantial in nature and/or impact public health or safety.

§ 174-13.3. Lower impact development.²⁶ [Added 4-10-2006 ATM by Art. 47]

²⁶ Editor's Note: Former § 174-13.3, Critical Resource District, added 4-14-1986 ATM by Art. 38, was superseded 4-12-1993 ATM by Art. 43. See now § 174-8.10, Critical Resource District.

- A. Purpose and 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 Bylaws of the Federal Clean Water Act found at 40 CFR 122.34. Environmental protection is a significant concern of the Town of Southborough. It is in the public interest to minimize the impacts associated with land development and to regulate post-development stormwater runoff discharges to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff. Lower impact development (hereinafter LID) site planning and management of 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, groundwater, and drinking water supplies. The purpose of this bylaw is as follows:
- (1) To protect the quality and quantity of surface waters, reservoirs, and groundwater, to maintain the integrity of aquatic living resources and ecosystems, and to preserve the physical integrity of receiving streams and water bodies;
 - (2) To encourage a more efficient form of development that consumes less open land and protects existing topography, wildlife habitats, and natural features;
 - (3) To require that new development, redevelopment and all land conversion activities maintain the natural hydrologic characteristics of the land to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;
 - (4) To establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources; and
 - (5) To minimize the total amount of disturbance of the land.
- B. Definitions. Terms not defined in this bylaw shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

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

BIORETENTION AREAS — Shallow depressions filled with engineered soils, topped with a thick layer of mulch, and planted with dense vegetation that reduce the overall amount of runoff to be treated by infiltrating stormwater to the ground.

DISTURBED AREA — An area, man-made or natural, where the existing condition has been or is proposed to be altered.

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

LOWER IMPACT DEVELOPMENT (LID) — An ecosystem-based approach to land development and stormwater management that ensures that each development site is designed to protect, or restore, the natural hydrology of the site.

LID MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

LID TECHNIQUES — Engineering measures that compensate for the reduced infiltration and storage characteristics of developed sites.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY — The policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 56.²⁷ 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.

MULTIFUNCTIONAL LANDSCAPE FEATURES — Bioretention areas, swales, and conservation areas that mimic or replicate hydrologic functions and maintain the ecological/biological integrity of receiving streams and water bodies.

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 Southborough.

NEW DEVELOPMENT — Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain significant alterations 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.

27.Editor's Note: See the Clean Waters Act in MGL c. 21, §§ 26 through 53.

OPERATION AND MAINTENANCE PLAN — A plan that defines the functional, financial, and organizational mechanisms for the ongoing operation.

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 Southborough, and any other legal entity, its legal representatives, agents, or assigns.

PRE-DEVELOPMENT — The conditions that exist at the time that plans for the development of a tract of land are submitted to the special permit granting authority. 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.

POINT SOURCE — Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

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 where the existing land use is commercial, industrial, institutional, or multifamily residential.

RESOURCE AREA — Any area protected under federal, state, or local law or regulation, including, without limitation: the Massachusetts Wetlands Protection Act and the Southborough Wetlands Protection Bylaw.²⁸

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

SEDIMENTATION — A process of depositing material that has been suspended and transported in water.

SITE — The parcel of land being developed or a designated planning area in which the land development project is located.

- C. Applicability. This bylaw shall be applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion

28. Editor's Note: See Ch. 170, Wetlands Protection.

applications, any activity that will result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Subsection D of this bylaw. After April 10, 2006, the Planning Board shall not approve any application for development or redevelopment if the land or parcels of land were held in common ownership (including ownership by related or jointly controlled persons or entities) and were subdivided or otherwise modified to avoid compliance. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw. A LID special permit shall be required from the Planning Board for the following:

- (1) Any activity subject to major plan review (§ 174-10);
- (2) Any activity that will result in soil disturbance of one acre or more;
- (3) Any residential development or redevelopment of five or more acres of land proposed pursuant to the Subdivision Control Law, MGL c. 41, § 81K to 81GG, inclusive, or proposed under a special permit process pursuant to MGL c. 40A, § 9.

D. Exemptions.

- (1) Any activity that will disturb an area less than one acre.
- (2) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation, 310 CMR 10.04 and MGL c. 40A, § 3.
- (3) Construction and associated grading of a way that has been approved by the Planning Board.
- (4) The maintenance, reconstruction or resurfacing of any public way; and the installation of drainage structures and utilities within or associated with public ways that have been approved by the appropriate authorities.
- (5) Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the special permit granting authority.
- (6) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this bylaw.
- (7) Redevelopment projects are presumed to meet the specified LID requirements described in the LID Bylaw of the Town of Southborough if the total impervious cover is reduced by 40% from existing conditions. Where site conditions prevent the reduction in impervious cover, LID practices shall be implemented to provide stormwater controls for at least 40% of the site's impervious area. When a combination of impervious area reduction and implementation of LID techniques is used for redevelopment

projects, the combination of impervious area reduction and the area controlled by a LID practice shall equal or exceed 40%.

E. Special permit application and procedure.

- (1) The Planning Board shall be the special permit granting authority for the issuance of a LID special permit. Such special permit applications shall be submitted, considered, and issued only in accordance with the provisions of this bylaw and MGL c. 40A, § 9.
- (2) To obtain approval for a project subject to the provisions of this bylaw, the applicant shall submit a LID special permit application that meets the LID site design principles stated below, a LID management plan and an operation and maintenance plan that complies with the requirements set forth herein and in the regulations adopted pursuant to this bylaw.
 - (a) Preservation of the site's natural features and environmentally sensitive areas such as wetlands, native vegetation, mature trees, slopes, drainageways, permeable soils, floodplains, woodlands and soils to the greatest extent possible;
 - (b) Minimization of grading and clearing;
 - (c) Clustering of buildings;
 - (d) Use of stormwater management components that provide filtration, treatment and infiltration such as vegetated areas that slow down runoff; maximizing infiltration and reducing contact with paved surfaces;
 - (e) Creation of subwatersheds to treat and manage runoff in smaller, decentralized, low-tech stormwater management techniques to treat and recharge stormwater close to the source;
 - (f) Emphasis of simple, nonstructural, low-tech, low-cost methods, including open drainage systems, disconnection of roof runoff, and street sweeping;
 - (g) Reduction of impervious surfaces wherever possible through alternative street design, such as omission of curbs and use of narrower streets, shared driveways and through the use of shared parking areas;
 - (h) Reduction of any heat island effect;
 - (i) Use of native plant vegetation (invasive species prohibited) in buffer strips and in rain gardens (small planted depressions that can trap and filter runoff). Naturalized, noninvasive plant species may be substituted for native plant vegetation subject to the Board's approval.

- (j) Techniques integrated into every aspect of site design to create a hydrologically functional lot or site, including the following:
 - [1] Vegetated open channel systems along roads;
 - [2] Rain gardens;
 - [3] Buffer strips;
 - [4] Use of roof gardens where practicable;
 - [5] Use of amended soils that will store, filter and infiltrate runoff;
 - [6] Bioretention areas;
 - [7] Use of rain barrels and other cisterns to provide additional stormwater storage;
 - [8] Use of permeable pavement.
- (3) The Planning Board may waive some of the requirements for a LID special permit application if it determines that some of the application requirements are unnecessary because of the size or character of the development project or because of the natural conditions at the site. Waivers that are granted at the initial approval may not be binding if the reasons for which the waiver was granted are changed or no longer exist.
- (4) The applicant shall make all requests for waivers in writing. The applicant shall submit supporting technical information and documentation to demonstrate that some, or all, of the requirements are unnecessary because of minimal environmental impact or other reasons why such waiver/s should be granted. The Planning Board's decision to grant or deny waivers shall be in writing and shall set forth the reasons for the grant or denial.
- (5) At the time of application, the applicant shall provide in writing the name of the person who is responsible for the site disturbing activity which is the subject of the application. Said person shall ensure that the approved activity takes place in accordance with the application, plan and special permit requirements.
- F. Entry. Filing an application for a special permit grants the Board, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting special permit.
- G. LID management plan.
 - (1) The LID management plan shall contain sufficient information for the Planning Board to evaluate the environmental impact, effectiveness, and acceptability of the site planning process and the measures proposed by the applicant to reduce all adverse

impacts from stormwater runoff to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff, and to minimize the impacts associated with land development. This plan shall be in accordance with the criteria established in this bylaw and the supporting regulations and must be prepared, stamped and signed by a professional engineer registered in Massachusetts, a registered land surveyor, or a Massachusetts licensed soil evaluator, as appropriate.

- (2) The LID management plan shall fully describe the project in drawings, narrative, and calculations. It shall meet the criteria set forth in the regulations adopted pursuant to this bylaw.
- H. Operation and maintenance plan contents. The operation and maintenance plan (O&M plan) shall be designed to ensure compliance with the LID special permit, this bylaw and to ensure that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, are met in all seasons and throughout the life of the system. The O&M plan shall be prepared in accordance with the criteria established in the regulations adopted pursuant to this bylaw, and shall be stamped and signed by a professional engineer registered in Massachusetts, and a registered land surveyor, as appropriate. The O&M plan shall remain on file with the Planning Board and shall be an ongoing requirement.
 - I. Performance standards: LID criteria. The LID application and required plans shall meet the general performance criteria set forth in the regulations adopted pursuant to this bylaw.
 - J. Findings and conditions of approval.
 - (1) The Board shall not approve any application for a LID special permit unless it finds that the following conditions have been met and the LID techniques listed herein have been employed to the maximum extent practicable to meet the stated purpose of this Bylaw.
 - (a) A separate special permit shall be required from the Planning Board when an area totaling one acre or more on any parcel or contiguous parcels in the same ownership will have the existing vegetation clear-stripped or be filled six inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity or unless necessarily incidental to construction on the premises under a currently valid building permit or unless within streets which are either public or designated on an approved subdivision plan. The special permit shall require that run-off be controlled, erosion prevented and either a constructed surface or cover vegetation be provided not later than the first full spring season immediately following completion of the stripping operation.

Any stripped area that is allowed to remain stripped through the winter shall have a temporary cover of winter rye or similar plant material for soil control, except in the case of agricultural activity when such temporary cover would be infeasible.

- (b) Measures shall be employed to minimize adverse impacts on wildlife habitats and corridors, natural or historic landscape features, and scenic vistas and views.
 - (c) Compliance with all applicable federal, state and local regulations and guidelines, including but not limited to the Stormwater Management Handbook as it may be amended, has been demonstrated.
- (2) The Planning Board may require a cash performance guarantee to ensure compliance with these requirements and for the operation and maintenance of all permanent LID measures. With the approval of the Board upon the recommendation of Town Counsel and the Town Treasurer, as appropriate, the applicant may substitute an irrevocable letter of credit or performance bond in lieu of the cash performance guarantee. Any performance bond or letter of credit shall be executed and maintained by a financial institution, surety, or guarantee company qualified to do business in the Commonwealth of Massachusetts.
- (3) Prior to commencement of any land disturbing activity, the applicant shall record the special permit with the Registry of Deeds or Registry District of the Land Court, and the applicant shall submit to the Planning Board written proof of such recording.
- (4) At completion of the project, the owner shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required for the site. The as-built drawing shall show deviations from the approved plans, if any, and shall be certified by a professional engineer registered in Massachusetts.
- (5) Based upon the nature of the application the Board may impose requirements or limitations to minimize the impacts, if any, on abutting properties or uses.
- (6) The site planning process shall be documented and shall include the following steps:
 - (a) Identify and map environmental resources;
 - (b) Delineate potential building envelopes avoiding environmental resource areas and appropriate buffers; and
 - (c) Develop methods to minimize impervious surfaces, and to protect and preserve open space.
- (7) All stormwater runoff generated from land development and land use conversion activities shall not discharge untreated stormwater

runoff directly to a wetland, local water body, municipal drainage system, or abutting property, without adequate treatment.

- (8) The Planning Board may deny a LID special permit if it determines:
 - (a) The requirements set forth herein are not met; or
 - (b) The intent of the application is to circumvent other provisions of the Town's Zoning Code, rules, or regulations.
- K. Enforcement. The Board or its authorized agent and the Town of Southborough shall have the power and duty to enforce this bylaw, its regulations, decisions, orders, violation notices, and enforcement orders issued pursuant to this bylaw, and may pursue all civil and criminal remedies for such violations.
 - (1) Penalties. Any person who violates any provision of this bylaw, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Southborough.
 - (2) Tax liens. The Town of Southborough shall require the repayment of services provided to the responsible party that the responsible party was obligated to perform as set forth in the operation and maintenance plan. If repayment is not made within 30 days, the Town may impose a tax lien on the property of the responsible party or parties.
- L. Severability. Any determination that a particular provision or set of provisions in this bylaw are invalid or unenforceable shall not render ineffective, unenforceable, or inapplicable the remainder of this bylaw.

§ 174-13.4. Water resource protection. [Added 4-14-1986 ATM by Art. 40]

- A. Design and operations guidelines. To reduce asks of water contamination, the following design and operations guidelines shall be observed wherever germane in all new nonresidential construction.
 - (1) Safeguards. Provisions shall be made to protect against hazardous materials discharge or loss through corrosion, accidental damage, spillage or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for hazardous materials and indoor storage provisions for corrodible or dissolvable materials.
 - (2) Disposal. Provisions shall be made to assure that any waste disposed on the site shall contain no hazardous materials in concentrations substantially greater than associated with normal household use.
 - (3) Drainage. Floor or lavatory drainage shall be directed to an impervious retention facility for controlled removal. Provision shall

be made for on-site recharge of all stormwater runoff from impervious surfaces unless, following consultation with the Conservation Commission, the Building Inspector determines that either recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Recharge shall be by surface infiltration through vegetative surfaces unless otherwise approved by the Building Inspector following consultation with the Conservation Commission. Dry wells shall be used only where other methods are infeasible and shall employ oil, grease and sediment traps. Drainage from loading and unloading areas for hazardous materials shall be separately collected for safe disposal.

B. Uses requiring special permits.

- (1) The following shall be allowed only if granted a special permit from the special permit granting authority:
 - (a) Waste generation requiring the obtaining of an Environmental Protection Agency identification number, except for small quantity generators, as defined under DEQE regulations, 310 CMR 30.351.
 - (b) On-site sewage disposal having an estimated sewage flow greater than 15,000 gallons per day, regardless of location, or greater than 1,500 gallons per day if within 500 feet of any surface water body.
 - (c) Rendering impervious more than 75% of lot area.
 - (d) Except for single-family dwellings, on-site sewage disposal systems having an estimated sewage flow exceeding 120 gallons per day per 10,000 square feet of lot area.
 - (e) Discharge to surface water requiring a permit under 314 CMR 3.00 (NPDES permit).
- (2) Change in activity resulting in crossing any of the thresholds of B(1)(a) through (d) shall constitute a change of use requiring a special permit.

C. Special permit process.

- (1) Authority and procedure. The special permit granting authority (SPGA) shall be the Board of Appeals. Upon receipt of the special permit application, the SPGA shall transmit one copy each to the Planning Board, the Conservation Commission, the Board of Health and the Building Inspector for their written recommendations. Failure to respond within 35 days of transmittal shall indicate approval by said agencies.
- (2) Submittals. In applying for a special permit under this section, the information listed below shall be submitted unless the Board

of Appeals, prior to formal application, determines that certain of these items are not germane:

- (a) A complete list of all chemicals, pesticides, fuels or other potentially hazardous materials to be used or stored on the premises in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all storage containers or facilities from vandalism, corrosion and leakage and to provide for control of spills.
 - (b) A description of potentially hazardous wastes to be generated, including storage and disposal methods as in Subsection C(2)(a) above.
 - (c) For aboveground storage of hazardous materials or wastes, evidence of qualified professional supervision of design and installation of such storage facilities or containers.
 - (d) For disposal on-site of domestic wastewater with an estimated sewage flow greater than 15,000 gallons per day, evidence of qualified professional supervision of design and installation, including an assessment of nitrate, phosphate and coliform bacteria impact on groundwater quality.
- (3) Special permit criteria. Special permits under this section shall be granted only if the SPGA determines that there is adequate assurance that there will be no violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) and that groundwater quality resulting from on-site waste disposal, other operations on-site and natural recharge will not fall below federal or state standards for drinking water when averaged over the boundaries of the site or, if existing groundwater quality is already below those standards, on-site disposal or operations will result in no further deterioration and only if the SPGA determines that proposed control and response measures adequately and reliably mitigate risk to groundwater quality resulting from accident or system failure. In its decision, the SPGA shall explain any departures from the recommendations of other Town agencies in its decision.
- (4) Conditions. Special permits shall be granted only subject to such conditions as are necessary to assure adequate safeguarding of water quality, which may include the following, among others:
- (a) Monitoring wells to be located downgradient of potential pollution sources, with periodic sampling to be provided to the Board of Health at the owner's expense.
 - (b) Pollutant source reduction, including limitations on use of parking area deicing materials and periodic cleaning or

renovation of pollution control devices, such as catch basin sumps.

§ 174-13.5. Stormwater and erosion control. [Added 4-10-2006 ATM by Art. 46]

A. Purpose. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the Town of Southborough to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town. The purpose of this bylaw is to prevent or diminish these impacts by controlling runoff and preventing soil erosion and sedimentation resulting from site construction and development. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the bylaws of the federal Clean Water Act found at 40 CFR 122.34. Nothing in this bylaw is intended to replace the requirements of either the Town of Southborough Wetlands Protection Bylaw,²⁹ or any other bylaw that has been or may be adopted by the Town of Southborough. Any activity subject to the provisions of the above-cited bylaws must comply with the specifications of each applicable bylaw. The objectives of this bylaw are to:

- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of wetland and 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 to provide recharge and 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 and 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;
- (4) Establish design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality;
- (5) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to

29. Editor's Note: See Ch. 270, Wetlands Protection.

meet the minimum construction/alteration and post-development stormwater management standards and to encourage the use of nonstructural stormwater management, stormwater site design practices or "low-impact development practices," such as reducing impervious cover and the preservation of open space and other natural areas, to the maximum extent practicable;

- (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; and
- (8) Establish administrative procedures and fees for the submission, review, approval, or disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

B. Definitions.

AGRICULTURE — The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) and its implementing regulations (310 CMR 10.00).

ALTER — Any activity that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area and will measurably change the ability of a ground surface area to absorb water. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area. Alter may be similarly represented as "alteration of drainage characteristics," and "conducting land disturbance activities."

APPLICANT — Any "person" as defined below requesting a stormwater and erosion control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY — The Conservation Commission (hereinafter "the Commission") and its employees or agents or other employee of the Town of Southborough shall be in charge of enforcing the requirements of this bylaw.

BEST MANAGEMENT PRACTICE (BMP) — Structural, nonstructural, vegetative and managerial techniques that are recognized to be the most effective and practical means to reduce erosion and sediment, prevent 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.

CONSTRUCTION AND WASTE MATERIALS — Excess or discarded building or construction site materials that may adversely impact water quality, including but not limited to concrete truck washout, chemicals, litter and sanitary waste.

DISTURBED AREA — An area, man-made or natural, where the existing condition has been or is proposed to be altered.

ENVIRONMENTAL SITE MONITOR — A professional engineer, or other trained professional selected by the Commission and retained by the holder of a stormwater and erosion control permit to periodically inspect the work and report to the Commission.

EROSION — A condition in which the earth's surface, including soil or rock fragment, is detached and moved away by the action of water, wind, ice, gravity or other natural means.

GENERAL STORMWATER MANAGEMENT PERMIT (GSMP) — A permit issued for an application that meets a set of predetermined standards outlined in the regulations to be adopted by the Commission under this bylaw. By meeting these predetermined standards, the proposed project will be presumed to meet the requirements and intent of this bylaw.

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

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, MGL c. 131, § 40, and Massachusetts Clean Waters Act MGL c. 21, §§ 23 through 56.³⁰ The policy addresses stormwater impacts through implementation of performance standards

30. Editor's Note: See the Clean Waters Act in MGL c. 21, §§ 26 through 53.

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.

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 Southborough, and any other legal entity, its legal representatives, agents, or assigns.

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

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

RECHARGE — The replenishment of underground water reserves.

REDEVELOPMENT — Any construction, alteration, or improvement exceeding land disturbance of 5,000 square feet, where the existing land use is commercial, industrial, institutional, or multifamily residential.

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

SEDIMENT — Solid material, whether mineral or organic, that is in suspension, is transported or has been moved from its site of origin by erosion.

SEDIMENTATION — A process of depositing material that has been suspended and transported in water.

SLOPE — The vertical rise divided by the horizontal distance and expressed as a fraction or percentage.

STABILIZED — The elimination of any erosion.

STORMWATER MANAGEMENT HANDBOOK — Stormwater Management Handbook, Volume One and Volume Two, prepared by the Mass. Department of Environmental Protection and the Mass. Office of Coastal Zone Management dated March 1997, as the same may be from time to time revised.

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

- C. Applicability. This bylaw shall be applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that will result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Subsection D of this bylaw. After April 10, 2006, the Commission shall not approve any application for development or redevelopment if the land or parcels of land were held in common ownership (including ownership by related or jointly controlled persons or entities) and were subdivided or otherwise modified to avoid compliance. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw. A stormwater and erosion control permit shall be required from the Commission for the following:
- (1) Any activity subject to major site plan review (§ 174-10);
 - (2) Any activity that will result in soil disturbance of one acre or more, or more than 50% of the parcel or lot, whichever is less;
 - (3) Any residential development or redevelopment of five or more acres of land proposed pursuant to the Subdivision Control Law, MGL c. 41, §§ 81K to 81GG, inclusive, or proposed under a special permit process pursuant to MGL c. 40A, § 9;
 - (4) Any activity that will increase the amount of impervious surfaces more than 50% of the area of a parcel or lot; and
 - (5) Any activity that will disturb land with 15% or greater slope and where the land disturbance is greater than or equal to 15,000 square feet within the sloped area.
- D. Exemptions. The following activities are exempt from the requirements of this bylaw:
- (1) Normal maintenance of Town-owned public land, ways and appurtenances;
 - (2) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation, 310 CMR 10.04 and MGL c. 40A, § 3;
 - (3) Repair or replacement of septic systems when approved by the Board of Health for the protection of public health;

- (4) Normal maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling, provided such maintenance does not include the addition of more than 400 cubic yards of soil material, or alteration of drainage patterns;
- (5) The construction of fencing that will not alter existing terrain or drainage patterns;
- (6) Construction and associated grading of a way that has been approved by the Planning Board;
- (7) The maintenance, reconstruction or resurfacing of any public way; and the installation of drainage structures or utilities within or associated with public ways that have been approved by the appropriate authorities, provided that written notice be filed with the Conservation Commission 14 days prior to commencement of activity;
- (8) The removal of earth products undertaken in connection with an agricultural use if the removal is necessary for or directly related to planting, cultivating or harvesting or the raising or care of animals; or
- (9) Activity in accordance with the terms of an existing order of conditions or determination of applicability issued by the Commission pursuant to MGL c. 131, § 40, or the Southborough Wetlands Protection Bylaw, Chapter 170 of the Code of the Town of Southborough.

E. Administration.

- (1) The Conservation Commission shall be the permit granting authority for the issuance of a stormwater and erosion control permit and shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Commission may be delegated in writing by the Commission to its employees or agents or other municipal employees as appropriate. Such permit applications shall be submitted, considered, and issued only in accordance with the provisions of this bylaw and the regulations adopted pursuant to this bylaw.
- (2) Stormwater regulations. The Commission shall adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Stormwater and Erosion Control Bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this bylaw.
- (3) Right of entry. Filing an application for a stormwater and erosion control permit grants the Commission, or its agent, permission to

enter the site to verify the information in the application and to inspect for compliance with permit conditions.

- (4) Stormwater management manual. The Commission 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.
 - (5) Application. To obtain approval for a project subject to the provisions of this bylaw, the applicant shall submit a stormwater management and erosion control plan and an operation and maintenance plan prepared, stamped and signed by a professional engineer registered in Massachusetts, a registered land surveyor, or a Massachusetts licensed soil evaluator, as appropriate, that complies with the requirements set forth herein and in the regulations adopted pursuant to this bylaw. The operation and maintenance plan (O&M plan) shall be designed to ensure compliance with the permit, this bylaw, and that the Massachusetts surface water quality standards, 314 CMR 4.00, are met in all seasons and throughout the life of the system. The O&M plan shall remain on file with the Commission, the Planning Board, the Department of Public Works and the Town Engineer and shall be an ongoing requirement. The O&M plan shall meet the criteria set forth in the regulations adopted pursuant to this bylaw. The plans shall fully describe the project in drawings, narrative, and calculations.
 - (a) At the time of application, the applicant shall provide in writing the name and the 24 hours a day and seven days a week contact information of the person who is responsible for erosion and sediment control for the site-disturbing activity which is the subject of the application. Said person shall ensure that the approved activity takes place in accordance with the application, plan and permit requirements.
- F. Fees. The Commission shall establish fees to cover expenses incurred by the Town in reviewing the application and monitoring permit compliance. The Commission is authorized to retain and charge the applicant fees to cover the cost of hiring a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of the project. The applicant for a stormwater and erosion control permit may be required to establish and maintain

an escrow account to cover the costs of said consultants. Applicants shall pay review fees to the Commission before the review process may begin.

- G. Surety. The Commission may require a cash performance guaranty to ensure compliance with these requirements and for the long-term operation and maintenance of all permanent erosion control and stormwater management measures. The form of the bond shall be approved by the Commission upon the recommendation of Town Counsel and the Town Treasurer, as appropriate. With the approval of the Commission upon the recommendation of Town Counsel and the Town Treasurer, as appropriate, the applicant may substitute an irrevocable letter of credit or performance bond in lieu of the cash performance guaranty. Any performance bond or letter of credit shall be executed and maintained by a financial institution, surety, or guaranty company qualified to do business in the Commonwealth of Massachusetts.
- H. Waivers.
 - (1) The Commission may waive strict compliance with some of the requirements of this bylaw or the rules and regulations promulgated hereunder, if it determines that some of the application requirements are unnecessary because of the size or character of the development project or because of the natural conditions at the site and where such action:
 - (a) Is allowed by federal, state and local statutes and/or regulations;
 - (b) Is in the public interest; and
 - (c) Is not inconsistent with the purpose and intent of this bylaw.
 - (2) Any request from an applicant for a waiver of these rules shall be submitted, in writing, to the Commission at the time of submission of the application. Such requests shall clearly identify the provisions of the rule from which relief is sought and be accompanied by a statement setting forth the reasons why, in the applicant's opinion, the granting of such a waiver would be in the public interest or the specific information required to show strict compliance is irrelevant to the project, and why a waiver would be consistent with the intent and purpose of this bylaw and the rules and regulations promulgated hereunder.
- I. Findings and conditions of approval.
 - (1) The Commission shall not approve any application for a stormwater and erosion control permit unless it finds that BMPs will be employed to meet the following requirements:

- (a) Compliance with all applicable federal, state and local regulations and guidelines, including but not limited to the Stormwater Management Handbook as it may be amended, has been demonstrated;
- (b) Measures shall be employed to minimize adverse impacts on wildlife habitats and corridors, natural or historic landscape features, and scenic vistas and views;
- (c) The duration of exposure of disturbed areas due to removal of vegetation, soil removal, and/or regrading shall be set forth in a written time table and approved by the Commission;
- (d) There shall be no net increase in the rate of stormwater runoff from the site;
- (e) There shall be no net increase in the volume of stormwater runoff across the boundaries of the site unless provisions have been made to tie into the public storm drains, where available, with the approval of the appropriate parties or authorities or, the Commission has determined that all reasonable provisions have been made to minimize any changes in stormwater runoff at the site;
- (f) There shall be no adverse impacts to abutting properties from any increase in volume of stormwater runoff, including erosion, silting, flooding, sedimentation or impacts to wetlands, groundwater levels or wells;
- (g) Where the site is not proposed to be covered with gravel, hardscape, or a building or structure, a planting plan to ensure permanent revegetation of the site has been approved;
- (h) Areas to be planted shall be loamed with not less than six inches compacted depth of good quality loam and seeded with turf grass seed or other appropriate ground cover in accordance with good planting practice;
- (i) Dust control shall be used during grading operations if the grading is to occur within 500 feet of an occupied residence or place of business, school, playground, park, cemetery, or place of worship;
- (j) During construction, temporary erosion and sedimentation control measures will be employed in accordance with the approved plan;
- (k) During construction, any site access from a paved public way shall be improved with a gravel apron of 15 feet wide and at least 24 feet long to prevent unstable material from being transported onto the street by vehicle tires or by runoff;

- (l) Until a disturbed area is permanently stabilized, sediment in runoff water shall be trapped by using a siltation barrier, siltation fences, and/or sedimentation traps;
 - (m) Dust control shall be used during grading operations if the grading is to occur within 500 feet of the property line of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water;
 - (n) Permanent erosion control and vegetative measures shall be in accordance with the approved plan; and
 - (o) Where applicable, homeowner's, facility or condominium documents shall provide for the long-term operation and maintenance of all permanent erosion control and stormwater management measures, including surety.
- (2) Based upon the nature of the application the Commission may impose reasonable requirements or limitations to minimize the impacts, if any, on abutting properties or uses.
 - (3) Prior to commencement of any land disturbing activity, the applicant shall record the permit with the Registry of Deeds or Registry District of the Land Court, and shall submit to the Commission written proof of such recording.
 - (4) At completion of the project, the owner shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required for the site. The as-built drawing shall show deviations from the approved plans, if any, and shall be certified by a professional engineer registered in Massachusetts.

J. Actions by the Commission.

- (1) The Commission shall act on each application for a permit within 90 days of the date of filing with the Commission and the Town Clerk, unless such application has been withdrawn from consideration.
- (2) The Commission may take any of the following actions as a result of an application for a stormwater management and erosion control 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.
- (3) A stormwater and erosion control permit may be disapproved if the Commission determines:
 - (a) The requirements of this Bylaw are not met; or

- (b) The intent of the application is to circumvent other provisions of the Town's Zoning Code and regulations.
 - (4) Appeals of action by the Commission. A decision of the Commission shall be final. Relief of a decision by the Commission made under this bylaw shall be reviewable by the Zoning Board of Appeals, provided that such appeal is filed within 10 business days of the date the decision was filed with the Town Clerk. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.
- K. Enforcement. The Commission or its authorized agent and the Town of Southborough shall have the power and duty to enforce this bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
 - (1) Penalties. Any person who violates any provision of this bylaw, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Southborough.
 - (2) Tax liens. The Town of Southborough shall require the repayment of services provided to the responsible party that the responsible party was obligated to perform as set forth in the operation and maintenance plan. If repayment is not made within 30 days, the Town may impose a tax lien on the property of the responsible party or parties.
 - (3) Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the Conservation Administrator, Conservation Agent or other authorized agent of the Town shall be the enforcing person.
- L. Severability. Any determination that a particular provision or set of provisions in this bylaw is invalid or unenforceable shall not render ineffective, unenforceable, or inapplicable the remainder of this bylaw.

§ 174-13.6. Commercial large-scale ground-mounted solar energy systems. [Added 4-14-2015 ATM by Art. 26]

- A. Purpose and intent.
 - (1) The purpose of this bylaw is to provide a permitting process and standards for the creation of new commercial solar energy systems by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations to address public safety and minimize impacts on residential neighborhoods and scenic, natural and historic resources.

- (2) The provisions set forth in this section shall apply to the construction, operation, repair and/or decommissioning of a commercial solar energy system that is structurally mounted on the ground and has a minimum nameplate capacity of 250 kW.

B. Applicability.

- (1) Commercial large-scale ground-mounted solar energy systems with 250 kW or larger of rated nameplate capacity shall be erected or installed in compliance with the provisions of this section and other applicable sections of the Zoning Bylaw, as well as local, state and federal law and regulations. Such use shall not create a nuisance which is discernible from other properties by virtue of noise, vibration, smoke, dust, odors, heat, glare and radiation, unsightliness or other nuisances as determined by the special permit and site plan review granting authority. The special permit and site plan approval granting authority is the Planning Board.
- (2) Commercial large-scale ground-mounted solar energy systems with 250 kW or larger of rated nameplate capacity are only allowed in the Industrial and Industrial Park Districts and shall undergo special permit and site plan review by the Planning Board prior to construction, installation or modification as provided in this section.
- (3) This section also pertains to physical modifications that materially alter the type, configuration or size of these installations or related equipment throughout the useful life of the system or where alterations may impact abutters.

C. General requirements

- (1) Dimensional requirements. A commercial solar energy system shall comply with all requirements in the Schedule of Dimensional Regulations in Addendum No. 2 of the Zoning Code of the Town of Southborough.
- (2) Structures and panels. All structures and panels and all associated equipment and fencing, including the commercial solar energy system, shall be subject to all applicable bylaws and regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building.
- (3) Visual impact. The visual impact of the commercial solar energy system, including all accessory structures and appurtenances, shall be minimized. All accessory structures and appurtenances shall be architecturally compatible with each other. Structures shall be shielded from view and/or joined and clustered if practical to avoid adverse visual impacts as deemed necessary by and in the sole opinion of the Planning Board. Methods such as the use of landscaping, natural features and opaque fencing shall be utilized.

- (4) Compliance with laws, ordinances and regulations. The construction and operation of all commercial solar energy systems shall be consistent with all applicable local regulations and bylaws, as well as state and federal laws, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a commercial solar energy system shall be constructed in accordance with the State Building Code.

D. Design standards.

- (1) Lighting. Lighting of the commercial solar energy system, including all accessory structures and appurtenances, shall not be permitted unless required by the Planning Board, special permit and site plan approval decision or required by the State Building Code.
- (2) Signs and advertising.
 - (a) Section 174-11, Signs, of the Code of the Town of Southborough shall not apply to this section. Signage for commercial solar energy systems shall be limited in size as determined by the Planning Board.
 - (b) Commercial solar energy systems shall not be used for displaying any advertising except for reasonable identification of the owner or operator of the commercial solar energy system and emergency contact information.
- (3) Utility connections. All utility connections from the commercial solar energy system shall be underground unless specifically permitted otherwise by a special permit and site plan approval decision. Electrical transformers, inverters, switchgear and metering equipment to enable utility interconnections may be aboveground if required by the utility provider.
- (4) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation and trees shall be limited to what is necessary for the construction, operation and maintenance of the commercial solar energy system or otherwise prescribed by applicable laws, regulations and bylaws or the special permit and site plan review decisions.

E. Modifications. All substantive material modifications to the commercial solar energy system made after issuance of the special permit and site plan approval decision shall require modification to the special permit and site plan approval decision.

F. Abandonment and removal.

- (1) Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances,

the commercial solar energy system shall be considered abandoned when it fails to operate at 50% capacity for more than one year without the written consent of the Planning Board. If the owner or operator of the commercial solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

- (2) Removal requirements. Any commercial solar energy system which has reached the end of its useful life or has been abandoned 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.
- G. Before issuance of any building permits for the commercial solar energy system, such construction and installation shall be secured in accordance with this bylaw and/or any regulations adopted pursuant to the commercial solar energy system for this purpose.
- H. Building permit and building inspection. No commercial solar energy system shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
- I. The Planning Board may adopt regulations to implement the purpose of this bylaw.
- J. Permit continuances. Special permit and site plan approval decisions shall be valid for a twelve-month period unless renewed or extended by the Planning Board following an application made by the applicant.
- K. When acting on a special permit application pursuant to this article, the Planning Board shall conduct its review, hold a public hearing and file its decision with the Town Clerk as required by MGL c. 40A, § 9.
- L. Approval criteria. In reviewing any application for a special permit pursuant to this article, the Planning Board shall give due consideration to promoting the public health, safety, convenience and welfare; shall encourage the most appropriate use of land and shall permit no structure or use that is injurious, noxious, offensive or detrimental to its neighborhood.

§ 174-13.7. As-of-right commercial large-scale ground-mounted solar energy systems. [Added 4-12-2016 ATM by Art. 27]

A. Purpose and intent.

- (1) The purpose of this bylaw is to provide a permitting process and standards for the creation of new commercial solar energy systems by providing standards for the placement, design, construction,

operation, monitoring, modification and removal of such installations to address public safety and minimize impacts on residential neighborhoods and scenic, natural and historic resources.

- (2) The provisions set forth in this section shall apply to the construction, operation, repair and/or decommissioning of a commercial solar energy system that is structurally mounted on the ground and has a minimum nameplate capacity of 250 kW.

B. Applicability.

- (1) Commercial large-scale ground-mounted solar energy systems with 250 kW or larger of rated nameplate capacity shall be erected or installed in compliance with the provisions of this section and other applicable sections of the Zoning Bylaw, as well as local, state and federal law and regulations. Such use shall not create a nuisance which is discernible from other properties by virtue of noise, vibration, smoke, dust, odors, heat, glare and radiation, unsightliness or other nuisances as determined by the site plan review granting authority. The site plan approval granting authority is the Planning Board.
- (2) Commercial large-scale ground-mounted solar energy systems with 250 kW or larger of rated nameplate capacity identified in the Industrial and Industrial Park Districts Overlay District shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section.
- (3) This section also pertains to physical modifications that materially alter the type, configuration or size of these installations or related equipment throughout the useful life of the system or where alterations may impact abutters.

C. Definitions.

AS-OF-RIGHT SITING — As-of-right siting shall mean that development may proceed without the need for a special permit. As-of-right solar installations under this section are subject to site plan review and regulated by the Building Commissioner.

BUILDING COMMISSIONER — Charged with the enforcement of the Zoning Bylaw.

BUILDING PERMIT — A construction permit issued by the Building Commissioner; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing commercial large-scale ground-mounted solar energy systems.

DESIGNATED LOCATION — The location(s) designated by the Town of Southborough, in accordance with Massachusetts General Laws

Chapter 40A, Section 5, where commercial large-scale ground-mounted solar energy systems may be sited as-of-right. Said location(s) are shown on a Zoning Map "Southborough Massachusetts Zoning Map" pursuant to Massachusetts General Laws Chapter 40A, Section 4. This map is hereby made a part of this Zoning Bylaw and is on file in the office of the Southborough Town Clerk.

D. General requirements.

- (1) Dimensional requirements. A commercial solar energy system shall comply with all requirements in the Schedule of Dimensional Regulations in Addendum No. 2 of the Zoning Code of the Town of Southborough.
- (2) Structures and panels. All structures and panels and all associated equipment and fencing, including the commercial solar energy system, shall be subject to all applicable bylaws and regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building.
- (3) Visual impact. The visual impact of the commercial solar energy system, including all accessory structures and appurtenances, shall be minimized. All accessory structures and appurtenances shall be architecturally compatible with each other. Structures shall be shielded from view and/or joined and clustered if practical to avoid adverse visual impacts as deemed necessary by and in the sole discretion of the Planning Board. Methods such as the use of landscaping, natural features and opaque fencing shall be utilized.
- (4) Compliance with laws, ordinances and regulations. The construction and operation of all commercial solar energy systems shall be consistent with all applicable local regulations and bylaws, as well as state and federal laws, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a commercial solar energy system shall be constructed in accordance with the State Building Code as may be determined by the Building Commissioner.

E. Design standards.

- (1) Lighting. Lighting of the commercial solar energy system, including all accessory structures and appurtenances, shall not be permitted unless required by the Planning Board, special permit and site plan approval decision or required by the State Building Code.
- (2) Signs and advertising.
 - (a) Section 174-11, Signs, of the Code of the Town of Southborough shall not apply to this section. Signage for

commercial solar energy systems shall be limited in size as determined by the Planning Board.

- (b) Commercial solar energy systems shall not be used for displaying any advertising except for reasonable identification of the owner or operator of the commercial solar energy system and emergency contact information.
 - (3) Utility connections. All utility connections from the commercial solar energy system shall be underground unless specifically permitted otherwise by a special permit and site plan approval decision. Electrical transformers, inverters, switchgear and metering equipment to enable utility interconnections may be aboveground if required by the utility provider.
 - (4) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation and trees shall be limited to what is necessary for the construction, operation and maintenance of the commercial solar energy system or otherwise prescribed by applicable laws, regulations and bylaws or the special permit and site plan review decisions.
- F. Modifications. All substantive material modifications to the commercial solar energy system made after site plan approval shall require modification to the site plan approval decision.
- G. Abandonment and removal.
- (1) Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the commercial solar energy system shall be considered abandoned when it fails to operate at 50% capacity for more than one year without the written consent of the Planning Board. If the owner or operator of the commercial solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.
 - (2) Removal requirements. Any commercial solar energy system which has reached the end of its useful life or has been abandoned 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 first class and certified mail, return receipt requested, of the proposed date of discontinued operations and plans for removal.
- H. To the extent permissible by applicable law, before issuance of any building permits for the commercial solar energy system, such construction and installation shall be secured in accordance with this bylaw and/or any regulations adopted pursuant to the commercial solar energy system for this purpose.

- I. Building permit and building inspection. No commercial solar energy system shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
- J. The Planning Board may promulgate rules and regulations to implement the intent and purpose of this bylaw.
- K. Permit continuances. The site plan approval decision shall be valid for a twelve-month period unless renewed or extended by the Planning Board following an application made by the applicant.
- L. When acting on a site plan review of the application pursuant to this article, the Planning Board shall conduct its review, conduct a public hearing and file its decision with the Town Clerk.
- M. Approval criteria. In reviewing any application for a site plan pursuant to this article, the Planning Board shall give due consideration to promoting the public health, safety, convenience and welfare; shall encourage the most appropriate use of land and shall permit no structure or use that is injurious, noxious, offensive or detrimental to its neighborhood.
- N. Any person aggrieved by the action of the Planning Board on a site plan approval application may appeal said action to the Zoning Board of Appeals as provided in Article VI of this chapter of the Southborough Code.

ARTICLE IV
Dimensional Regulations

§ 174-14. Compliance required.

- A. Any building or structure or use of a building, structure or land hereafter located, erected, commenced, expanded, altered or relocated, the lot on which it is to be located and the location of said building, structure or use on said lot shall comply with the requirements of this Article IV and of other applicable sections hereof. No lot shall be reduced in size, altered or subdivided and no part thereof conveyed or transferred if said lot or the buildings or structures thereon and the uses thereof already are or will be caused thereby to be not in compliance with the provisions of this chapter.
- B. If land is subdivided, transferred or conveyed in violation of this section, in addition to other remedies provided by law, no zoning, special, building or occupancy permit or variance shall be granted for either the land subdivided or conveyed or for the remainder of the original parcel until both meet the requirements of this section.

§ 174-15. Applicability.

The requirements of the following Schedule of Dimensional Regulations, including the footnotes thereto, apply to each district and to specific uses or structures within certain districts as indicated in said schedule.³¹ The height limitations of said schedule do not apply to antennas, chimneys, silos, skylights, tanks, towers, ventilators and similar building features extending not more than 20 feet above the height permitted in the district in which they are located and not used for human occupancy.

§ 174-16. Residence C Districts.

Any lot lawfully in existence on March 16, 1966, located in a Residence C District and conforming to the requirements for said districts then in effect, may be built upon for a one-family house and the uses and buildings accessory thereto, or the one-family use of such lot may be added to, expanded or structurally altered, provided that all said uses, buildings, expansion or alterations conform to the requirements of the bylaw for Residence C Districts in effect on March 16, 1966.

§ 174-17. Previously recorded lots.

As provided by MGL c. 40A, § 6, certain previously recorded lots may be built upon during the period of time specified or forever, even though such lots do not meet the dimensional requirements of this chapter.

31. Editor's Note: This reference to the Schedule of Dimensional Regulations was superseded 4-12-1993 ATM by Art. 43.

- A. Any lot which was in ownership separate from adjoining land at the time the dimensional requirements of this chapter were adopted and has not been since consolidated, altered or combined with other lots may be built upon for a one-family residence, provided that such a lot has at least 5,000 square feet in area and 50 feet in frontage.
- B. The use of lots shown on a plan endorsed by the Planning Board as not requiring approval under the Subdivision Control Law³² shall be governed by the provisions of the Zoning Bylaw in effect at the time of submission of such a plan for a period of three years from the date of Planning Board endorsement, even if such endorsement is delayed pending disposition of a court appeal.
- C. If a definitive subdivision plan or a preliminary plan followed within seven months by a definitive plan is submitted for Planning Board approval and written notice of such submission is given to the Town Clerk, the land shown on such plan shall be governed by the provisions of the Zoning Bylaw in effect at the time of first submission while the plan is being processed and for eight years from the date of Planning Board endorsement of plan approval (seven years for plans submitted and approved prior to January 1, 1976), even if said endorsement is delayed pending the disposition of a court appeal.

32.Editor's Note: See Ch. 244, Subdivision of Land.

ARTICLE V
Nonconforming Uses and Structures

§ 174-18. Exemptions.

Any structure lawfully erected and existing and any use lawfully being made of land or buildings which do not conform to this chapter, as adopted or as amended, may be continued to the same extent and for the same purpose but shall not be expanded or altered, except in conformance with this chapter. This exemption shall include buildings, structures and uses authorized by a building or special permit issued prior to the publication of the first hearing notice for an amendment to this chapter which would make them nonconforming, provided that the construction or use under such a permit is commenced within six months after the permit is issued and, in case of construction, is continued to completion in a reasonably expeditious manner.

§ 174-19. Extensions or alterations. [Amended 4-10-2000 ATM by Art. 55]

- A. Nonconforming structures or uses shall not be extended or altered, except to make them conforming, unless the Board of Appeals authorizes such extension or alteration by special permit upon making findings as provided in § 174-9E.
- B. Single-family and two-family residential structures. In the following circumstances, alterations, reconstruction, extension or structural change to a single-family or two-family residential structure shall not be considered an increase in the nonconforming nature of the structure and shall be permitted as of right: **[Amended 10-7-2013 STM by Art. 9]**
 - (1) Alteration to a structure which complies with all current setbacks, lot coverage and building height requirements but is located on a lot with insufficient area, where the alteration will also comply with all of said current requirements;
 - (2) Alteration to a structure which complies with all current setbacks, lot coverage and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements;
 - (3) Alteration to a structure which encroaches upon one or more required setbacks, where the alteration will comply with all current setbacks, open lot coverage and building height requirements. The provisions of this Subsection B(3) shall apply regardless of whether the lot complies with current area and frontage requirements.

§ 174-20. Restoration.

No structure damaged by fire or other causes to the extent of more than 75% of its assessed valuation shall be repaired or rebuilt, except in conformity with this chapter; provided, however, that the provisions of this section shall not apply to a dwelling or to a garage or other accessory structure incidental to the use of such dwelling for human habitation which was in conformity with the existing law at the time said structure was erected.

§ 174-21. Abandonment. [Amended 4-14-1986 ATM by Art. 41]

A nonconforming use, including a nonaccessory sign, if discontinued for a period of two or more years or abandoned shall not be reestablished, and any future use of the structure or premises shall conform to this chapter.

§ 174-22. Reversion.

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

§ 174-23. Reconstruction.

Structures damaged by fire or other accident or natural catastrophe to an extent of less than 75% of the assessed valuation preceding such damage may be rebuilt or restored to the same dimensions and in the same location as before the damage, but shall not be enlarged, altered or relocated except upon the issuance of a special permit as provided in § 174-19.

ARTICLE VI
Administration

**§ 174-24. Enforcement; procedures; violations and penalties.
[Amended 9-29-2009 STM by Art. 5]**

- A. This chapter shall be enforced by the Building Inspector, as Zoning Enforcement Officer, as provided for in MGL c. 40A, § 7. No structure shall be erected, altered, demolished or moved and no land or structure shall be changed in use until and unless a permit has been issued. Any person violating any provisions of this bylaw, any conditions under which a permit is issued, or any decision rendered by the Board of Appeals or the Planning Board shall be punished by a fine not exceeding \$300 for each offense. Each day that such violation continues shall constitute a separate offense.
- B. Any violation which is subject to a specific penalty herein may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D. A noncriminal disposition under this provision shall not preclude further judicial proceedings regarding continuing violation of the Southborough Zoning Code beyond the date of said noncriminal disposition or the use of any other remedy provided for violation pursuant to MGL c. 40A. The Zoning Enforcement Officer may give to the person violating this bylaw a written notice to appear before the Clerk of the Westborough District Court at any time during normal business hours not later than 21 days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the violator, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the Zoning Enforcement Officer, and shall be signed by the violator whenever practicable in acknowledgement that such notice has been received.

§ 174-25. Board of Appeals.

- A. The Board of Selectmen shall appoint a Board of Appeals of five members, who shall serve five-year terms, such that the term of one member shall end each year. The Board of Selectmen shall also appoint two associate members of the Board of Appeals, who shall be designated by the Chairman of the Board of Appeals to act when a member is absent or unable to participate for any reason. The Board of Appeals shall adopt and file with the Town Clerk rules consistent with the requirements of the General Laws, Chapter 40A, and with this chapter. The Board of Appeals shall act on the following classes of matters, and no zoning or building permit shall be issued that is inconsistent with a decision of the Board of Appeals or on any matter within the jurisdiction of or before the Board of Appeals until it has filed its decision thereon:

- (1) Appeals. Any person aggrieved by any order, decision or failure to act, believed to be in violation of the State Zoning Act or this chapter, including the action of the Board of Selectmen relative to a zoning permit or a site plan, may appeal such action or failure to act to the Board of Appeals, as provided by MGL c. 40A, §§ 8, 14 and 15, and the Board of Appeals may reverse or affirm, wholly or in part, any such action or decision. The Board of Appeals shall to that end have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.
 - (2) Special permits. Unless otherwise designated by this chapter, the Board of Appeals shall be the special permit granting authority and shall hear and decide requests for special permits as provided in §§ 174-8B, 174-9 and other sections of this chapter and in accordance with MGL c. 40A, §§ 9, 11, 14, et al. Uses accessory to activities necessary for permitted scientific research and development may be authorized by special permit, whether or not on the same parcel as the principal use, provided that the Board of Appeals finds that such accessory use meets the general requirements of § 174-9.
 - (3) Variances. The Board of Appeals shall have the power to grant, upon appeal or upon petition, variances from the terms of this chapter, not including use variances, where the Board finds that, due to circumstances relating to soil conditions, topography or shape of land or structures and especially affecting such land or structures but not affecting generally the zoning district in which they are located, literal enforcement of this chapter would involve substantial hardship to the appellant or petitioner and that the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter. The Board of Appeals may impose conditions, limitations and safeguards not based on the continued ownership by the applicant, petitioner or any owner. If the rights authorized by a variance are not exercised within one year from the date of grant thereof, they shall lapse, and a new petition, notice and hearing will be required for their reestablishment. **[Amended 10-18-2016 STM by Art. 6]**
 - (4) Comprehensive permits. The Board of Appeals may issue comprehensive permits for publicly subsidized housing, as provided in MGL c. 40B, § 21.
- B. Before acting on any appeal or application for a special or comprehensive permit or a variance, the Board of Appeals shall hold a public hearing, after publishing notices thereof twice in a newspaper of general circulation in Southborough and sending notices to abutters, all as provided in the General Laws, Chapter 40A. The Board of Appeals shall conform to time limits for its notices, public hearings, decisions and filing thereof as required by said Chapter 40A. The Board shall establish within its rules and may from time to time change by vote and

file with the Town Clerk reasonable application fees to cover the costs of notices and hearings.

§ 174-26. Amendments.

This chapter or any part thereof may be amended or repealed at a Town Meeting duly called after an advertised public hearing is held on the proposed amendment by the Planning Board and it submits a report thereon or 20 days elapse without such report being submitted.

§ 174-27. When effective.

This chapter and any amendments thereto shall take effect as provided by law upon adoption by a Town Meeting, provided that it is subsequently approved by the Attorney General and published or 90 days elapse without action by the Attorney General.

§ 174-28. Severability.

If any provision of this chapter or in the administration thereof is declared invalid or void by a court of competent jurisdiction, this shall not invalidate or void any other section or provision hereof.

Chapter 181**FEES****Chapter 195****PEDESTRIANS****GENERAL REFERENCES****Loitering — See Ch. 117.****Vehicles and traffic — See Ch. 207.**

§ 195-1. Crossing ways and roads.

Pedestrians shall obey the direction of police officers directing traffic, and whenever there is an officer directing traffic, a traffic control signal or a marked crosswalk within 300 feet of a pedestrian, no such pedestrian shall cross a way or roadway except within the limits of a marked crosswalk and as hereinafter provided in these regulations. For the purpose of these regulations, a marked crosswalk shall only be construed to be that area of a roadway reserved for pedestrian crossing located between two solid white reflectorized twelve-inch pavement markings in rural areas or markings not less than six inches wide in urban areas, said markings or lines being no less than six feet apart.

§ 195-2. Use of traffic control devices.

- A. At a traffic control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian push button, no pedestrian shall cross a roadway unless or until the pedestrian control signal push button has been actuated, and then cross only on the proper pedestrian signal indication. At traffic control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication. If necessary, the green indication shall be actuated by the pedestrian by means of a push button.
- B. At a traffic control signal location, pedestrians shall yield the right-of-way to vehicles of a funeral or other procession or to authorized emergency vehicles while in performance of emergency duties regardless of the signal indication given, and they shall not attempt to cross the roadway until such vehicles or procession has passed, at which time pedestrians shall then cross the roadway only as provided in these regulations.

§ 195-3. Obedience to signals.

Traffic control signal color indications and legends shall have the commands ascribed to them in this section and no other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer.

- A. The word "walk." Whenever the single word "walk" is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signal only.
- B. Red alone or "don't walk." Whenever the words "don't walk" or any indication other than red and yellow shown together are illuminated in a traffic control signal where pedestrian indications are provided, pedestrians approaching or facing such indication shall wait on the sidewalk, the edge of the roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the proper indication is illuminated in the traffic control signal, but any pedestrian who has partially completed his crossing on the "walk" indication shall proceed or return to the nearest sidewalk or safety island on the yellow indication, the red indication or when the words "don't walk" are illuminated by rapid intermittent flashes.
- C. Green alone. At traffic control signal locations where no pedestrian indication is given or provided, pedestrians facing the signal may proceed across the roadway within any marked crosswalk in the direction of the green indication.
- D. Yellow alone, red alone or flashing "don't walk." Pedestrians approaching or facing a yellow illuminated indication, a red illuminated indication or a flashing "don't walk" illuminated indication shall not start to cross a roadway.
- E. Flashing red, yellow or green. At any traffic control signal location where a flashing red, flashing yellow or flashing green indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian signal indication and shall cross the roadway only on the red, yellow or "walk" indication when such indication is in operation. If no pedestrian signal is provided, pedestrians shall cross within crosswalks with due care.

§ 195-4. Crossing and walking along roadways.

- A. No pedestrian shall suddenly leave a sidewalk or safety island and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield the right-of-way.
- B. Pedestrians shall, at all times, attempt to cross a roadway using the right half of crosswalks.

- C. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway whenever the sidewalk is open to pedestrian use.
- D. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway, on its unfinished shoulder, facing traffic which may approach from the opposite direction.
- E. Persons alighting from the roadway side of any vehicle parked at the curb or the edge of the roadway shall proceed immediately to the sidewalk or the edge of the roadway adjacent to the vehicle and shall cross the roadway only as authorized by these regulations.
- F. It shall be unlawful for any person to actuate a pedestrian control signal or to enter a marked crosswalk unless a crossing of the roadway is intended.

§ 195-5. Crossing where there is no signal.

Every pedestrian crossing a roadway at any point other than within a marked crosswalk shall yield the right-of-way to all vehicles upon the roadway. At a point where a pedestrian tunnel or overpass has been provided, pedestrians shall cross the roadway only by the proper use of the tunnel or overpass.

§ 195-6. Responsibilities of operators of vehicles.

The provisions of these regulations shall in no way abrogate the provisions of MGL c. 90, §§ 14 and 14A, which provide "Precautions for Safety of Other Travelers" and for the "Protection of Blind Persons Crossing Ways." Furthermore, notwithstanding the provisions of these regulations, every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian upon the roadway and shall give warning by sounding the horn when necessary and shall exercise proper precautions which may become necessary for safe operation.

§ 195-7. Pedestrians soliciting rides or business.

No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the operator or occupant of any vehicle without the written permission of the board or officer having control of such roadway or highway.

§ 195-8. Enforcement.

These pedestrian control regulations shall be enforced by all officers of the Town of Southborough on and after March 12, 1974.

§ 195-9. Exemptions.

The provisions of these rules and regulations governing the use of ways by pedestrians shall not apply to pedestrians actually engaged in work upon a roadway closed to travel or under construction or repair, to municipal, state, federal or public service corporation employees while in the performance of their duties, to officers engaged in the performance of their public duties or to pedestrians acting in an emergency when such emergency necessitates departure from any part of these rules and regulations.

§ 195-10. Violations and penalties.

Any person who violates the provisions of this Article which deal with the proper use of ways by pedestrians shall be punished as provided in MGL c. 90, § 18A.

§ 195-11. Repealer.

All existing rules and regulations governing the operation of vehicles or the use of ways by pedestrians which are inconsistent herewith are hereby expressly repealed. This repeal shall not, however, affect any punishment or penalty imposed or any complaint or prosecution pending at the time of passage hereof for any offense committed under any of said rules and regulations hereby repealed.

§ 195-12. Validity.

If any section, subsection, sentence, clause or phrase of these rules and regulations is for any reason unconstitutional, such decision shall not affect the validity of the remaining portion of these rules and regulations. The Board of Selectmen of the Town of Southborough hereby declare that they would have passed these rules and regulations and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional.

Chapter 207**VEHICLES AND TRAFFIC**

ARTICLE I
Definitions

§ 207-1. Terms defined.

For the purpose of these regulations, the words and phrases used herein shall have the following meanings, except in those instances where the context clearly indicates a different meaning:

BUS STOP — An area in the roadway set aside for the boarding of or alighting from and the parking of buses.

CROSSWALK — That portion of a roadway ordinarily included within the prolongation or connection of curblines and property lines at intersections or at any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other marking or signs.

CURB MARKING, OFFICIAL — That portion of a curbing, the painting of which has been authorized by the Board of Selectmen and which has the written approval of the Department of Public Works, Commonwealth of Massachusetts.³³

EMERGENCY VEHICLE — Vehicles of the Fire Department (Fire Patrol), police vehicles, ambulances and emergency vehicles of federal, state and municipal departments or public service corporations when the latter are responding to an emergency in relation to the Police or Fire Department.

FUNERAL — Any procession of mourners, properly identified as such, accompanying the remains of a human body.

INTERSECTION — The area embraced within the extension of the lateral curblines, or, if none, then the lateral boundary lines, of intersecting ways as defined in MGL c. 90, § 1, including divided ways. The rules and regulations herein contained governing and restricting the movement of vehicles at and near intersecting ways shall apply at any place along any way at which drivers are to be controlled by traffic control signals, whether or not such place is an "intersection" as herein defined.

LANE — A longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

OFFICER — Any officer of the Southborough Police Department or any officer authorized to direct or regulate traffic or to make arrests for the violation of traffic regulations.

PARKING — The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading or in obedience to an officer or traffic signs or signals or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

33. Editor's Note: Now the Department of Transportation.

PEDESTRIAN — Any person afoot or riding on a conveyance moved by human muscular power, except bicycles or tricycles, as defined in MGL c. 90, § 18A.

PERSON — Includes any individual, firm, copartnership, association or corporation.

RAILROAD CROSSING — Any intersection of ways with a railroad right-of-way.

ROADWAY — That portion of a street or highway between the regularly established curblines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

ROTARY TRAFFIC — The counterclockwise operation of a vehicle around an object or structure.

SAFETY ZONE — Any area or space set aside within a roadway for the exclusive use of pedestrians and which has been indicated by signs, lines or markings, having the written approval of the Department of Public Works, Commonwealth of Massachusetts.³⁴

SERVICE ZONE — An area in the roadway set aside for the accommodation of commercial and transient vehicular traffic.

STREET MARKING, OFFICIAL — Any painted line, legend, marking or marker of any description painted or placed upon any way which purports to direct or regulate traffic and which has been authorized by the Selectmen and which has the written approval of the Department of Public Works, Commonwealth of Massachusetts.³⁵

STREET OR HIGHWAY — The entire width between property lines of every way open to the use of the public for purposes of travel.

TAXICAB STAND — An area in the roadway in which certain taxicabs are authorized and required to park while waiting to be engaged.

TRAFFIC — Pedestrians, ridden or herded animals, vehicles, streetcars or other conveyances, either singly or together, while using any street or highway for the purpose of travel.

TRAFFIC CONTROL AREA — Any area along any way, other than an intersecting way, at which drivers are to be controlled by traffic control signals.

TRAFFIC CONTROL SIGNAL — Any device using colored lights, which conforms to the standards as prescribed by the Department of Public Works of the Commonwealth of Massachusetts,³⁶ whether manually, electrically or mechanically operated, by which traffic may be alternately directed to stop and to proceed.

34.Editor's Note: Now the Department of Transportation.

35.Editor's Note: Now the Department of Transportation.

36.Editor's Note: Now the Department of Transportation.

TRAFFIC ISLAND — Any area or space set aside within a roadway which is not intended for use by vehicular traffic.

TRAFFIC SIGNALS, OFFICIAL — All signals conforming to the standards as prescribed by the Department of Public Works of the Commonwealth of Massachusetts,³⁷ not inconsistent with these rules and orders, placed or erected by authority of a public body or official having jurisdiction for the purpose of directing or warning traffic.

TRAFFIC SIGNS, OFFICIAL — All signs, markings and devices, other than signals, not inconsistent with these rules and orders, which conform to the standards prescribed by the Department of Public Works of the Commonwealth of Massachusetts³⁸ and are placed or erected by authority of a public body or official having jurisdiction for the purpose of guiding, directing, warning or regulating traffic.

U-TURN — The turning of a vehicle by means of a continuous turn whereby the direction of such vehicle is reversed.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including bicycles when the provisions of these rules are applicable to them, except other devices moved by human power or used exclusively upon stationary rails or tracks and devices which derive their power for operation from stationary overhead wires.

VEHICLE, COMMERCIAL — Any vehicle being used in the transportation of goods, wares or merchandise for commercial purposes.

VEHICLE, HEAVY COMMERCIAL — Any commercial vehicle of 2 1/2 tons' capacity or over.

37. Editor's Note: Now the Department of Transportation.

38. Editor's Note: Now the Department of Transportation.

ARTICLE II
Authority and Duties of Police

§ 207-2. Authority to direct traffic.

It shall be the duty of officers designated by the Chief of Police to enforce the provisions of these regulations. Such officers are hereby authorized to direct all traffic, either in person or by means of a visible or audible signal, in conformance with the provisions of these regulations, provided that, in the event of a fire or other emergency, to expedite traffic or safeguard pedestrians, officers of the Police or Fire Department may direct traffic as conditions may require, notwithstanding the provisions of these regulations.

§ 207-3. Temporary street closings.

The Chief of Police is hereby authorized to close temporarily any street or highway in an impending or existing emergency or for any lawful assemblage, demonstration or procession.

§ 207-4. Temporary parking prohibitions.

The Chief of Police is hereby authorized to prohibit, temporarily, parking on any street or highway or part thereof in an impending or existing emergency or for a lawful assemblage, demonstration or procession. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of an officer.

§ 207-5. Exceptions.

The provisions of these regulations shall not apply to drivers actually engaged in work upon a street or highway closed to travel or under construction or repair, to officers when engaged in the performance of public duties nor to drivers of emergency vehicles while operating in an emergency and in performance of public duties when the nature of the work of any of these necessitate a departure from any part of these regulations. These exemptions shall not, however, protect the driver of any vehicle from the consequences of a reckless disregard of the safety of others.

ARTICLE III
Traffic Signs, Signals, Markings and Zones

§ 207-6. Bus stops, taxicab stands and service zones.

The location of all bus stops, taxicab stands and service zones shall be specified by the Selectmen, and in the case of taxicab stands, the Chief of Police, with the approval of the Selectmen, shall designate who may use them as such.

§ 207-7. Interference prohibited.

Any person who willfully defaces, injures, moves, obstructs or interferes with any official traffic sign, signal or marking shall be liable to a penalty not exceeding \$20 for each and every offense.

§ 207-8. Obedience required.

No driver of any vehicle or of any streetcar shall disobey the instructions of any official traffic control signal, sign, marking, marker or legend unless otherwise directed by a police officer.

§ 207-9. Placing of signs and signals; time of effect.

- A. The Superintendent of Streets is hereby authorized and, as to those signs and signals required hereunder, it shall be his duty to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the Department of Public Works of the Commonwealth of Massachusetts.³⁹
- B. Sections 207-3 and 207-4 of Article II and §§ 207-14, 207-15, 207-18 and 207-19 to 207-21, inclusive, of Article V relating to parking and §§ 207-30 and 207-33 of Article VII concerning turning movements and § 207-42 of Article VII pertaining to exclusion shall be effective only during such time as official signs are erected and maintained in each block designating the provisions of such sections and located so as to be easily visible to approaching drivers.
- C. Sections relating to one-way streets shall be effective only during such time as a sufficient number of official signs are erected and maintained at the entrance and each of the exits for each one-way street, so that at least one sign will be clearly visible for a distance of at least 75 feet to drivers approaching such an exit.

§ 207-10. Unofficial signs prohibited.

No person or corporation shall place, maintain or display upon or in view of any street any unofficial device, sign, signal, curb marking or street marking

39. Editor's Note: Now the Department of Transportation.

which purports to be or is an imitation of or resembles an official traffic device, sign, signal, curb marking or street marking or which attempts to direct the movement of traffic or which hides from view any official sign, signal, marking or device. The Chief of Police is hereby empowered to remove every such prohibited sign, signal, marking or device, or cause it to be removed, without notice.

§ 207-11. Experimental regulations.

For the purpose of trial, the Board of Selectmen may make temporary rules regulating traffic or test under actual conditions traffic signs, markings or other devices. No such experimental rules relating to traffic shall remain in effect for a period longer than 30 days.

ARTICLE IV
Zone of Quiet

§ 207-12. Establishment authorized.

The Chief of Police may temporarily establish a zone of quiet upon any street where a person is seriously ill. Said temporary zone of quiet shall embrace all territory within a radius of 200 feet of the building occupied by the sick person. Said temporary zones of quiet shall be designated by the Chief of Police by causing to be placed at a conspicuous place in the street a sign or marker bearing the words ZONE OF QUIET.

ARTICLE V
Stopping, Standing and Parking

§ 207-13. General prohibitions.

No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street, way, highway, road or parkway under the control of the Town of Southborough in violation of any of the traffic rules or orders adopted by the Board of Selectmen and, in particular, in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic sign or signal:

- A. Within an intersection, except within those intersections where the installation of parking meters has been specifically approved by the Massachusetts Department of Public Works.⁴⁰
- B. Upon any sidewalk.
- C. Upon any crosswalk.
- D. Upon the roadway in a rural or sparsely settled district.
- E. Upon the roadway where parking is permitted, unless both wheels on the right side of the vehicle are within 12 inches of the curb or edge of the roadway, except upon those streets which are designated as one-way streets. On such one-way streets, vehicles shall be parked in the direction in which said vehicle is moving and with both wheels within 12 inches of the curb. This shall not apply to streets or parts of streets where angle parking is required by these regulations.
- F. Upon any roadway where the parking of a vehicle will not leave a clear and unobstructed lane at least 10 feet wide for passing traffic.
- G. Upon any street or highway within 10 feet of a fire hydrant.
- H. In front of any private road or driveway.
- I. Upon any street or highway within 20 feet of an intersecting way, except alleys.
- J. Within 15 feet of the wall of a fire station or directly across the street from such fire station, provided that signs are erected acquainting the driver of such restriction.
- K. Alongside or opposite any street, excavation or obstruction when such stopping, standing or parking would obstruct traffic.
- L. Within 25 feet of the nearest rail of a railroad crossing when there are no gates at such crossing, or otherwise, within five feet from the gate.
- M. On a bridge and the approach thereto.

40. Editor's Note: Now the Department of Transportation.

§ 207-14. Service zones.

No person shall park a vehicle upon any street in any service zone for a period of time longer than 30 minutes and except while actually engaged in loading or unloading.

§ 207-15. Diagonal parking.

- A. The Selectmen shall determine the streets upon which diagonal parking will be permitted and shall cause said streets to be designated by signs and the surfaces thereof to be marked as directed by the Chief of Police.
- B. Diagonal parking is permitted upon certain sections of a number of streets as designated in Schedule I, hereto appended, to which reference is made, and which Schedule I, relative to diagonal parking, is herewith specifically incorporated in this section.⁴¹ Where such diagonal parking is permitted, vehicles shall be parked with one wheel within 12 inches of the curb and at the angle to the curb indicated by official marks and signs. The vehicle shall be parked so that all four wheels thereof shall be placed wholly within the area indicated for parking and headed to the curb.

§ 207-16. Parking of vehicles for sale restricted.

It shall be unlawful for any person to park upon a street or highway any vehicle displayed for sale.

§ 207-17. All-night parking prohibited.

No person shall allow, permit or suffer any vehicle registered in his name, other than one acting in an emergency, to be parked on any street for a period of time longer than one-hour between the hours of 1:00 a.m. and 6:00 a.m. of any day.

§ 207-18. Restricted parking.

Parking is prohibited, restricted or limited as to time, space and streets in accordance with a schedule of streets designated as Schedule I, hereto appended, to which reference is made, and which Schedule I is specifically incorporated in this section.⁴² No operator shall park a vehicle in the designated prohibited locations or in the restricted locations for a period longer than is designated in Schedule I, except as otherwise provided in this Schedule I or where there is a time limit as to parking.

§ 207-19. Parking prohibited in safety zones.

No person shall park a vehicle within 20 feet of either end of a safety zone which is located within 30 feet of the curb or edge of the roadway.

41. Editor's Note: Schedule I is included as an attachment to this chapter.

42. Editor's Note: Schedule I is included as an attachment to this chapter.

§ 207-20. Bus stops.

- A. No person shall stop or park a vehicle other than a bus in a bus stop.
- B. No person shall park a bus upon any street within a business district at any place other than a bus stop when a nearby bus stop is available for use.

§ 207-21. Taxicab stands.

- A. No person shall park a vehicle other than a taxicab upon any street within a business district in any taxicab stand.
- B. No person shall park a taxicab upon any street within a business district at any place other than the taxicab stand or stands designated for the use of his taxicab or taxicabs.

ARTICLE VI
One-Way Streets

§ 207-22. Designation.

The streets or portions thereof designated in Schedule II, hereto appended and specifically incorporated in this section, are declared to be one-way streets, and all vehicular traffic shall move on those streets or portions thereof in the direction designated in said Schedule II.⁴³

§ 207-23. Rotary traffic.

Within the area set forth below, vehicular traffic shall move only in a rotary counterclockwise direction, except when otherwise directed by an officer:

(Reserved)

43. Editor's Note: Schedule II is included as an attachment to this chapter.

ARTICLE VII
Operation of Vehicles

§ 207-24. Overtaking of other vehicles.

The driver of a vehicle may not overtake any other vehicle proceeding in the same direction unless there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safe operation of any vehicle ahead.

§ 207-25. Allowing overtaking by other vehicles.

The driver of a vehicle, when about to be overtaken and passed by another vehicle approaching from the rear, shall give way to the right in favor of the overtaking vehicle on suitable and audible signal being given by the driver of the overtaking vehicle and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

§ 207-26. Obstructing traffic.

- A. No person shall drive in such a manner as to obstruct unnecessarily the normal movement of traffic upon any street or highway. Officers are hereby authorized to require any driver to proceed to the side of the roadway and wait until such traffic as has been delayed has passed.
- B. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to accommodate the vehicle he is operating without obstructing the passage of such vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

§ 207-27. Following too closely.

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway.

§ 207-28. Clinging to moving vehicles.

It shall be unlawful for any person traveling upon a bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle to cling to or attach himself or his vehicle to any moving vehicle or streetcar upon any roadway.

§ 207-29. Safety in maneuvering.

The driver of any vehicle, before starting, stopping, turning from a direct line or backing, shall first see that such movement can be made in safety. If such movement cannot be made in safety or if it interferes unduly with the normal movement of other traffic, said driver shall wait for a more favorable opportunity to make such movement. If the operation of another vehicle

should be affected by a stopping or turning movement, the driver of such other vehicle shall be given a plainly visible signal, as required by statute law.

§ 207-30. Left turns prohibited.

(Reserved)

§ 207-31. Emerging from alley or private driveway.

The operator of a vehicle emerging from an alley, a driveway or a garage shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alleyway or driveway.

§ 207-32. Obedience to traffic control signals.

Colors and arrow indications in traffic control signals shall have the commands ascribed to them in this section, and no other meanings, and every driver of a vehicle, railway car or other conveyance shall comply therewith, except when otherwise directed by an officer or by a lawful traffic-regulating sign other than a stop sign, signal or device or except as provided in § 207-40B of these rules and regulations. In no case shall a driver enter or proceed through an intersection without due regard to the safety of other persons within the intersection, regardless of what indications may be given by traffic control signals.

- A. Flashing green. A flashing green lens shall indicate an intersection or pedestrian crosswalk in use or subject to use by entering or crossing traffic. Drivers may proceed only with caution and shall be prepared to comply with a change in the signal to a red and/or yellow indication.
- B. Flashing red. When a red lens is illuminated in a traffic control signal by rapid intermittent flashes, and its use has been specifically authorized by the Department of Public Works, Commonwealth of Massachusetts,⁴⁴ drivers shall stop before entering the nearer line of crosswalk of the street intersection, or at a stop line when marked, and the right to proceed shall then be governed by provisions of MGL c. 89, § 8.
- C. Flashing yellow. A flashing yellow lens shall indicate the presence of a hazard, and drivers may proceed only with caution.
- D. Green. While the green lens is illuminated, drivers facing the signal may proceed through the intersection but shall yield the right-of-way to pedestrians and vehicles lawfully within a crosswalk or the intersection at the time such signal was exhibited. Drivers of vehicles making a right or left turn shall yield the right-of-way to pedestrians crossing with the light.
- E. Red.

44. Editor's Note: Now the Department of Transportation.

- (1) Traffic facing a steady circular red signal alone shall stop at a clearly marked stop line or, if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown, except as allowed by MGL c. 89, § 8.
 - (2) No driver of a vehicle facing a circular red signal indication shall make a right turn where official traffic signs are installed and maintained prohibiting such turn at the following intersections:
 - (a) Routes 30 and 85 (all approaches) (Permit 1891).
 - (b) Northbound Route 85 at its intersection with Southville Road.
 - (c) Westbound Southville Road at its intersection with Route 85.
- F. Right, left and vertical green arrows. When a right green arrow is illuminated, drivers facing said signal may turn right. When a left green arrow is illuminated, drivers facing said signal may turn left. When a vertical green arrow is illuminated, drivers facing said signal may go straight ahead. When a green arrow is exhibited together with red or yellow lens, drivers may enter the intersection to make the movement permitted by the arrow but shall yield the right-of-way to vehicles and pedestrians proceeding from another direction on a green indication.
- G. Yellow. While the yellow lens is illuminated, waiting drivers shall not proceed, and any drivers approaching the intersection or a marked stop line shall stop at such point, unless so close to the intersection that a stop cannot be made in safety; provided, however, that if a green arrow is illuminated at the same time, drivers may enter the intersection to make the movement permitted by such arrow.

§ 207-33. U-turns prohibited.

No operator shall back or turn a vehicle so as to proceed in the direction opposite to that in which said vehicle is headed or traveling on the following streets:

(Reserved)

§ 207-34. Stop signs.

- A. Every driver of a vehicle, railway car or other conveyance approaching an intersection of ways where there exists facing him an official sign bearing the word "stop" or a flashing red signal indication, said signs or signals having, apart from these rules and orders, the written approval of the Department of Public Works, Commonwealth of Massachusetts,⁴⁵ and such approval being in effect, shall, before proceeding through the intersection, bring such vehicle, railway car or other conveyance to a complete stop at such point as may be clearly marked by a sign or line

45. Editor's Note: Now the Department of Transportation.

or, if a point is not so marked, then at the nearer line of crosswalk of said intersection. In the case of a line of two or more vehicles approaching such stop sign or flashing red signal indication, the drivers of the second and third vehicles in any group shall not be required to stop more than once before proceeding through the intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device or as provided in § 207-40C of this article.

- B. In accordance with the foregoing, the streets listed in Schedule III of these rules and orders are hereby declared to constitute isolated stop streets or flashing red signal intersections, as the case may be, and said Schedule III is hereby specifically incorporated in this section.⁴⁶

§ 207-35. Operation at underpasses, overpasses and intersections with islands.

At any junction or crossing of ways where the roadway grades have been separated and where the ways are connected by ramps and at any intersection of ways in which there are traffic islands, drivers of vehicles shall proceed only as indicated by official signs, signals or markings.

§ 207-36. Driving upon roads under construction or repair.

No operator shall enter upon a road surface of any street or highway, or section thereof, when, by reason of construction, surface treatment, maintenance or the like, or because of some unprotected hazard, such road surface is closed to travel, and one or more signs, lights or signals have been erected to indicate that all or part of the road surface of the street or highway is not to be used or when so advised by an officer, watchman, member of a street or highway crew or employees of the Town, either by signals or audibly.

§ 207-37. Driving upon sidewalks restricted.

The driver of a vehicle shall not drive upon any sidewalk, except at a permanent or temporary driveway.

§ 207-38. Driving through safety zones.

It shall be unlawful for the driver of a vehicle, except on signal from a police officer, to drive the same over or through a safety zone.

§ 207-39. Identification of funerals.

A funeral, composed entirely or partly of a procession of vehicles, shall be identified as such by means of black pennants bearing a purple symbol attached to both the first and last vehicles, or other suitable means.

46.Editor's Note: Schedule III is included as an attachment to this chapter.

§ 207-40. Rights and duties of drivers in funerals and other processions.

- A. It shall be the duty of each driver in a funeral or other procession to keep as near to the right edge of the roadway as is feasible and to follow the vehicle ahead as closely as practicable and safe.
- B. At an intersection where a traffic control signal is operating, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop for a red and/or yellow indication.
- C. At an intersection where a lawful stop sign exists, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop before proceeding through the intersection.

§ 207-41. Unlawful riding.

It shall be unlawful for any person to ride on any portion of a vehicle not designated or intended for the use of passengers when the vehicle is in motion. This provision shall not apply to any employee engaged in the necessary discharge of a duty or within truck bodies in space intended for merchandise.

§ 207-42. Truck exclusions.

- A. The use and operation of heavy commercial vehicles, having a carrying capacity of more than 2 1/2 tons, are hereby restricted on the streets, or parts thereof, named in Schedule IV,⁴⁷ and in the manner outlined and during the period of time set forth.
- B. Exemptions. Subsection A of this section shall not apply to heavy commercial vehicles going to or coming from places upon said streets for the purpose of making deliveries of goods, materials or merchandise to, or similar collections from, abutting land or buildings or adjoining streets or ways to which access cannot otherwise be gained or to vehicles used in connection with the construction, maintenance and repair of said streets or public utilities therein or to federal, state, municipal or public service corporation owned vehicles.

47. Editor's Note: Schedule IV is included as an attachment to this chapter.

ARTICLE VIII
Accident Reports

§ 207-43. Responsibilities of driver to make reports.

The driver of any vehicle involved in an accident resulting in the injury or death of any person or in which there is damage in excess of \$200 to any one vehicle or other property shall, within five days, report such accident to the Southborough Police Department and to the Registry of Motor Vehicles in conformance with the requirements of MGL c. 90, § 26.

ARTICLE IX
Miscellaneous Provisions

§ 207-44. Violations and penalties.

- A. Any person violating any provision of any rule, regulation or order regulating the parking of motor vehicles made by anybody authorized to make the same shall be dealt with as provided in MGL c. 90, § 20A, or any Acts in amendment thereof or in addition thereto, and any person violating any of the rules and regulations applicable to state highways made by the Department of Public Works, Commonwealth of Massachusetts,⁴⁸ under authority of MGL c. 85, § 2, and Acts in amendment thereof and in addition thereto, shall be subject to the penalty provided in said rules and regulations.
- B. Any person convicted of a violation of any other rule, regulation or order made hereunder, except as otherwise provided, shall be punished by a fine not exceeding \$20 for each offense.

§ 207-45. Severability; repealer.

- A. These rules are adopted with the intent that each of them shall have force and effect separately and independently of every other, except insofar as by express reference or necessary implication any rule or any part of a rule is made dependent upon another rule or part hereof.
- B. All official signs, lights, markings, signal systems or devices erected or installed under prior rules or regulations and necessary to the enforcement of these regulations shall be deemed to have been lawfully erected or installed hereunder, provided that the same were erected or installed with the permission and approval of the Department of Public Works of the Commonwealth of Massachusetts,⁴⁹ and insofar as the same are necessary as aforesaid for the enforcement of these regulations, they shall be deemed continuing hereunder, but in all other respects, all prior rules, orders and regulations made by the Board of Selectmen for the regulation of vehicles are hereby expressly repealed. This repeal, however, shall not affect any punishment or penalty imposed or any complaint or prosecution pending at the time of the passage hereof for any offense committed under said prior rules, orders or regulations hereby repealed, nor shall said repeal be effective unless and until these rules and regulations have been approved and published as required by law.

§ 207-46. Effect of regulations.

If any section, subsection, sentence, clause or phrase of these rules and orders is for any reason unconstitutional, such decisions shall not affect the validity of the remaining portion of these rules and orders. The Selectmen

48. Editor's Note: Now the Department of Transportation.

49. Editor's Note: Now the Department of Transportation.

hereby declare that it would have passed these regulations and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional.

§ 207-47. Prima facie responsibility.

If any vehicle is found upon any street or highway in violation of any provisions of these rules and orders and the identity of the driver cannot be determined, the owner or the person in whose name such vehicle is registered shall be held prima facie responsible for such violations.

Chapter 223
SEWAGE DISPOSAL

ARTICLE I
Definitions

§ 223-1. Terms defined.

The words, terms and phrases listed below, for the purpose of this chapter, shall be defined and interpreted in the following way:

APPROVING AUTHORITY — Town of Southborough Board of Health.

BUILDING SEWER — The pipe which begins 10 feet outside the inner face of the building wall and extends to a public sewer, septic tank or other place of sewage disposal.

CELLAR WALL — The inside of the cellar wall above the footing and below the ground surface.

CESSPOOL — A covered pit with open-jointed lining in its bottom portion into which raw sewage is discharged, the liquid portion of the sewage being disposed of by seepage or leaching into the surrounding porous soil and the solids or sludge being retained in the pit to undergo partial decomposition before occasional or intermittent removal.

COVER MATERIAL — The earth materials placed on top of the leaching facilities to bring the area to finish grade.

DEEP OBSERVATION HOLE — An open pit dug to a minimum of 10 feet to permit the examination of the soil and to determine the groundwater elevation.

DESIGNER — A person registered by the Commonwealth of Massachusetts as a professional engineer.

DISPOSAL WORKS INSTALLER — Any person, firm, contractor or corporation licensed by the Town of Southborough who installs, alters, constructs or repairs individual sewage disposal systems.

DISTRIBUTION BOX — A watertight structure which receives settled sewage and distributes it in substantially equal portions to two or more lines leading to the leaching area.

DISTRIBUTION LINE — The pipe used for the dispersion of sewage into leaching trenches or leaching fields.

DOSING TANK — A watertight structure placed between a septic tank and distribution box and equipped with a siphon or pump designed to discharge settled sewage intermittently to a leaching facility and to provide a rest period between such discharges.

FILL — The earth materials placed beneath and around the leaching facility.

GREASE TRAP — A watertight structure in which grease is separate from sewage.

GRAY WATER — Sanitary sewage, excluding waste discharges from a water closet, i.e., any water-carried putrescible waste resulting from the

discharge of laundry tubs, washing machines, sinks, showers, dishwashers or any other sources.

GROUNDWATER ELEVATION — The elevation at which water is observed weeping or flowing from the walls of or standing in a deep observation hole.

H-20 LOADING — Standard H-20 truck loadings as specified by the American Association of State Highway Officials.

HUMUS TOILET — A self-contained toilet from which no liquid or solid waste materials are regularly discharged and from which a humus-like end product is produced.

IMPERVIOUS MATERIAL — Material having a percolation rate greater than 30 minutes per inch for uses up to 2,000 gallons per day and 20 minutes per inch for uses over 2,000 gallons per day.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM — A subsurface sewage disposal system owned and operated by a person as defined in this section.

INDUSTRIAL WASTE — Any water-carried or liquid waste resulting from any process of industry, manufacture, trade or business or from the development or recovery of any natural resources.

INVERT — The lowest portion of the internal cross section of a pipe.

LEACHING FACILITY — An approved structure used for the dispersion of sewage effluent into the soil. These include leaching pits, galleries, chambers, trenches and fields, as described by Articles XI through XV.

LOT — An area of land in one ownership with definite boundaries.

MAXIMUM GROUNDWATER ELEVATION — The height of the groundwater table when it is at its maximum level of elevation. This level is usually reached during the months of December through April, and allowances should be made, therefore, at other times of the year.

MEAN HIGH WATER — The average of the (tidal) high waters reached over a nineteen-year period.

MULTIPLE COMPARTMENT TANKS — A septic tank containing more than one settling compartment in series and requiring the approval of the Massachusetts Department of Environmental Quality Engineering.

MULTIPLE USE — When more than one dwelling unit is placed on one lot, each such dwelling unit shall be served by a separate subsurface disposal system. Publicly financed housing projects for the elderly and dwelling units for no more than two related families are exempt from this provision, provided that it can be shown that the system has adequate capacity.

OPEN DRAIN — Any ditch used for the conveyance of water.

OWNER — Every person who, alone, jointly or severally with others, has legal title to any dwelling or dwelling unit or has care, charge or control of any dwelling or dwelling unit as agent, executor, executrix, administrator, administratrix, trustee, lessee or guardian of the estate of the holder of the legal title. Each such person thus representing the holder of the legal

title is bound to comply with the provisions of these minimum standards as if he were the "owner." "Owner" also means every person who operates a rooming house.

PERCOLATION TEST — A means of determining the suitability of the soil for the subsurface disposal of sewage.

PERSON — Every individual, partnership, corporation, firm, associate or group, including a city, town, county, the commonwealth or other governmental unit, owning property or carrying on an activity regulated by this chapter.

PRIVY — A structure used for the disposal of excreta without water transport. It consists of a shelter built above a pit or vault in the ground into which excrement is deposited.

RESERVE AREA — An additional area, of at least equal capacity as the original sewage disposal area, suitable for the subsurface disposal and upon which no permanent structures will be constructed.

SANITARY SEWAGE — Any water-carried putrescible waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, showers, dishwashers or any other source.

SANITARY SEWER — A pipe which carries sewage without storm-, surface or ground waters.

SCUM — A mass of solids floating at the surface of the septic tank.

SEPTAGE — The material removed from any part of an individual sewage disposal system.

SEPTIC TANK — A watertight receptacle which receives the discharge of sewage from a building sewer and which is designed and constructed so as to permit the retention of sludge and scum, the digestion of the organic matter and the discharge of the liquid portion to a leaching facility.

SEWAGE — Sanitary sewage.

SEWAGE DISPOSAL AREA — The area used for the subsurface dispersion of the liquid portion of sewage.

SUBSURFACE DRAIN — Any underground conduit used for the conveyance of water, including curtain drain.

WATERCOURSE — Any natural or man-made stream, pond, lake, wetland, coastal wetland, swamp or other body of water, and shall include wet meadows, marshes, swamps, bogs and areas where groundwater, floating or standing water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year. "Swamp" shall also mean areas where groundwater is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface.

ARTICLE II
General Requirements

§ 223-2. Disposal works construction permit.

No individual sewage disposal system or other means of sewage disposal shall be located, constructed, altered, repaired or installed where a common sanitary sewer is accessible adjoining the property and where permission to enter such sewer can be obtained from the authority having jurisdiction over it (see § 223-15) or, if a common sanitary sewer is not accessible, until a permit for its location, construction, alteration, repair or installation shall have been issued by the Board of Health. A permit shall not be issued when the total volume for sewage to be disposed of on any lot is in excess of 15,000 gallons per day, or where sewage treatment facilities are proposed on the lot to be served, until the plans for such a system have been approved by the Massachusetts Department of Environmental Quality Engineering in accordance with MGL c. 111, § 17. Where sewage flow on a lot exceeds 15,000 gallons per day, the Department of Environmental Quality Engineering may require additional treatment of the waste prior to its disposal to the ground.

§ 223-3. Disposal works installer's permit.

No person or firm shall engage in the construction, alteration, installation or repair of any individual disposal system without first obtaining a disposal works installers permit from the Board of Health. Such permits shall expire at the end of the year in which they are issued, unless earlier revoked for cause by the Board of Health.

§ 223-4. Septage handler's permit.

No person or firm shall engage in the pumping or transport of the contents of any part of an individual sewage disposal system without first obtaining a septage handler's permit from the Board of Health in accordance with MGL c. 111, § 31A. The application for such permit shall state the site and method of the disposal, and such site and method of disposal must have been approved by the Department of Environmental Quality Engineering regardless of the stated volume of material disposed of at that site. Such permits shall be contingent upon compliance with § 223-141 and shall expire at the end of the year in which they are issued, unless revoked earlier for cause. A list of permits issued shall be submitted to the appropriate regional office of the Department of Environmental Quality Engineering at the beginning of each calendar year.

§ 223-5. Application for construction permit.

An application for a disposal works construction permit shall be submitted to the Board of Health and must be accompanied by a plan of the proposed sewage disposal facilities. Such permit shall be invalidated if conditions other than those set forth in the application are found prior to or during the

actual construction of the individual sewage disposal system. In any event, a permit so granted shall expire one-year from the date of issue, unless construction of the system of individual sewage disposal is begun before the expiration date or unless this chapter has been revised.

§ 223-6. Plan of sewage disposal system.

All of the following information will appear on a single plan with a maximum size of 24 inches by 36 inches and using a scale of one inch equals 20 feet. A different scale will require prior approval of the Southborough Board of Health.

- A. The lot completely dimensioned and the names of all abutters; a North arrow and bench mark within 100 feet of the proposed system; the name and address of the applicant and the design engineer; the location, dimensions and all offsets of the proposed system and future expansion areas; the estimated daily flow; the design calculations; and the total leaching area provided for in square feet of sidewall area only (trenches and seepage pits).
- B. The existing and proposed contours and elevations with a minimum of two-foot intervals and the location, elevation and dated soil log of all deep observation holes and percolation tests; note on the plans percolation tests performed after overnight soak, if performed.
- C. The maximum groundwater elevation and determination data in the area of the sewage disposal system; the location of any streams, surface and subsurface drains, driveways and wetlands within 150 feet of the sewage disposal system; if a well is to serve the lot, the proposed well location with offsets and all known sewage disposal systems within 150 feet of the proposed well; the water service; and all known sources of water supply (wells and reservoirs) within 200 feet of the proposed sewage disposal system.
- D. A profile of the entire system with the following elevations shown:
 - (1) Invert elevation at the building foundation.
 - (2) Invert elevations of the inlet and outlet of the septic tank.
 - (3) Septic tank dimensions.
 - (4) Invert elevations of the inlet and outlet of the distribution box.
 - (5) Elevation of the basement floor.
 - (6) Elevation of the top of the foundation.
 - (7) Number of outlets in the proposed distribution box.
 - (8) Invert elevations of both the beginning and end of all trenches when used.
 - (9) Invert elevation of pipe at the seepage pit when used.

- (10) Elevation of the bottom of the trench or seepage pit and water table elevations.
- E. All existing and proposed structures and a typical cross section of leaching areas (trenches and seepage pits).
- F. The following notes shall be a part of the submitted plans:
 - (1) All construction is to conform to the requirements of the Massachusetts Department of Environmental Quality Engineering, Title 5, and the Town of Southborough Rules and Regulations.
 - (2) Any alteration to the approved system must be submitted to the Board of Health prior to construction for the Board's approval.
 - (3) The pipe from the building to the septic tank shall be four-inch cast iron, ductile iron or Schedule 40 PVC and shall be straight for its entire length or have bends with manholes. The pipe from the septic tank to the distribution box shall be four-inch cast iron, ductile iron or Schedule 40 PVC only. The pipe from the distribution box to the beginning of the leaching area shall be four-inch cast-iron, ductile iron or Schedule 40 PVC only.
 - (4) After construction, this system will be inspected and certified by a registered engineer and the Board of Health. A certificate of compliance from the engineer will be required, indicating that the system has been located and constructed in compliance with the terms of the permit, prior to the final approval of the Board of Health.
 - (5) The Board of Health reserves the right to require any additional information which it feels is necessary for the plan.

§ 223-7. Compliance required.

The use of an individual sewage disposal system shall be in compliance with the terms of the permit issued therefor and shall not exceed the design capacity of the system. Design capacity shall not be reduced for seasonal use.

§ 223-8. Exception to construction permit requirement.

No building permit, foundation permit, special building permit or plumbing permit shall be issued until a disposal works construction permit has first been obtained, unless the Board of Health determines that the existing sewage disposal system is adequate for proposed alteration or addition to an existing dwelling.

§ 223-9. Foundation certification.

No construction of a sewage disposal system or the superstructure may commence until two copies of a foundation certification plan from the

designer have been submitted and approved by the Board of Health. Said foundation certification shall show foundation offsets to the side line and the street line and the top of foundation elevation.

§ 223-10. Certificate of compliance.

A new sewage disposal system and alteration or repair to an existing individual system shall not be placed in service, nor shall any new dwellings or buildings or additions thereto which must rely on a new individual sewage disposal system for sewage disposal be occupied, until the Board of Health has issued a certificate of compliance. Prior to the Board of Health's issuing said certificate of compliance the designer or registered professional engineer will certify, in writing, that the sewage disposal system has been located, constructed, altered or repaired in compliance with the terms of the permit, the requirements of the Board of Health and the requirements of the Commonwealth of Massachusetts, Title 5. The certification from the designer or registered professional engineer will show all proposed and existing elevations as shown on the profile of the approved plans.

§ 223-11. Construction permit fee.

A fee for the issuance of a construction permit may be charged by the Board of Health at the time an application is made for the permit.

§ 223-12. Inspection of installation.

The Board of Health will inspect the installation of all individual sewage disposal systems and may, at any stage of construction, require necessary modifications if conditions are encountered that were not originally observed. When construction of the sewage disposal system has been completed, except for backfilling, the installer shall provide a reasonable period of notification when requesting an inspection, and the inspection shall be performed in a reasonable period of time by the Board of Health or its agent. The responsibility of notifying the designer or the registered professional engineer for their inspecting shall not be the duty of the Board of Health or its agent.

§ 223-13. Inspection of excavation when installation is in fill.

When an individual sewage disposal system is built in fill, the excavation shall be inspected by the Board of Health or its agent and the design engineer after the topsoil and subsoil have been removed and prior to the placement of any gravel. No construction of the sewage disposal system shall commence until a certificate from the design engineer stating that the fill used within the disposal area meets the requirements of § 223-17 of this chapter is received and approved by the Board of Health or its agent.

§ 223-14. Discharge into watercourse.

Sanitary sewage, gray water, the effluent from any sewage or waste treatment plant or other polluting water shall not be discharged into or allowed to flow by means of pipes, drains, etc., into any lake, pond, stream, tidal water, watercourse or open or covered drain tributary thereon, unless approved by the Massachusetts Department of Environmental Quality Engineering.

§ 223-15. Connection to common sanitary sewer.

Individual sewage disposal systems or other means of sewage disposal shall not be approved where a common sanitary sewer is accessible adjoining the property and where permission to enter such a sewer can be obtained from the authority having jurisdiction over it. The Board of Health may require the owner or occupant of an existing building or buildings, whenever a common sanitary sewer is accessible in an abutting way, to cause such building or buildings to be connected with the common sanitary sewer in a manner and within a period of time satisfactory to the Board of Health.

§ 223-16. Volume of sanitary sewage.

Each unit of the disposal system shall be designed to treat adequately the estimated volume of sanitary sewage to be discharged from the premises to be served. The volume of such flow should be based on the estimated maximum expected daily quantities of sewage, as determined from the table below. No cooling water, groundwater, discharge of roof drains or other uncontaminated water shall be discharged to the sanitary sewage disposal system.

**Sewage
Flow**

Estimates¹.

²

| Type of Establishment | Gallons (per day) |
|-------------------------------------------------------------------|------------------------------|
| Boarding school, college (per person) | 65 |
| Nursing home and rest home (per person) | 100 |
| School, without cafeteria, gymnasium or showers (per person) | 10 |
| School, with cafeteria, but not gymnasium or showers (per person) | 15 |
| School, with cafeteria, gymnasium and showers (per person) | 20 |
| Swimming pool (per person) | 10 |

| Type of Establishment | Gallons (per day) |
|--------------------------------------------------------------------------------|------------------------------|
| Camp, resident, with washroom and toilets (per person) | 25 |
| Camp, resident, with mess hall (per person) | 10 |
| Camp, day, with washroom and toilets (per person) | 10 |
| Camp, day, with mess hall (per person) | 3 |
| Campground, with showers and toilets (per site) | 75 |
| Gymnasium (per spectator) | 3 |
| Gymnasium (per participant) | 25 |
| Theater, auditorium (per person) | 3 |
| Public park, with toilet wastes only (per person) | 5 |
| Public park, with bathhouse, showers and flush toilets (per person) | 10 |
| Factory or industrial plant, without cafeteria (per person) | 15 |
| Factory or industrial plant, with cafeteria (per person) | 20 |
| Work or construction camp (per person) | 50 |
| Single- and multiple-dwelling units, motel, hotel, boardinghouse (per bedroom) | 100 |
| Tennis club (per court) | 250 |
| Bowling alley (per alley) | 100 |
| Country club, with dining room (per seat) | 10 |
| Country club, with snack bar or lunch room (per seat) | 10 |
| Country club, with locker and showers (per locker) | 20 |
| Church (per seat) | 3 |
| Church vestry/kitchen (per person, at capacity) | 5 |
| Trailer dump station (per site or per trailer) | 50 |
| Mobile home park (per site) | 200 |
| Office building (per 1,000 square feet) | 75 |
| Dry goods store (per 100 square feet) | 5 |
| Drive-in (per stall) | 5 |
| Non-single-family automatic clothes washer (per washing machine) | 400 |
| Hospital (per bed) | 200 |
| Service station, excluding thruway (per island) | 300 |
| Skating rink | 3,000 plus 5 per seat |

| Type of Establishment | Gallons (per day) |
|-------------------------------------------------------------------------------|------------------------------|
| Restaurant, food-service establishment, lounge, tavern (per seat or chair) | 35 |
| Restaurant, thruway service area (per seat or chair) | 150 |
| Restaurant, kitchen flow (per seat or chair) | 15 |
| Barbershop beauty salon (per seat or chair) | 100 |

Note: Laundromat wastes are considered industrial wastes and must be approved by the Department of Environmental Quality Engineering.

NOTES:

¹ Estimated sewage flows other than those listed here should be considered in relation to actual meter readings or established flows from known or similar installations. Generally, estimated sewage flows will be based on 200% of average water meter readings in order to assimilate daily flows.

² See Section 3.4F for single-family residential requirements.

§ 223-17. System requirements.

Except as provided in Article XVIII, an individual sewage disposal system shall consist of a septic tank discharging its effluent to a suitable subsurface sewage disposal area as hereinafter described. Where buildings are served by more than one system, each system shall consist of a septic tank discharging its effluent to a suitable subsurface sewage disposal area. Separate systems for laundry wastes are not recommended.

§ 223-18. Accumulation of surface water.

An individual disposal system shall be located in an area where no surface water will accumulate. Provisions shall be made to minimize the flow of surface water over the area.

§ 223-19. Cover material.

Earth materials used to cover subsurface sewage disposal facilities shall be free from large stones, frozen clumps of earth, masonry, stumps or waste construction materials. Machinery which may crush or disturb alignment of pipe in the disposal system shall not be allowed on any part of the disposal system.

§ 223-20. Construction in fill.

Where an individual sewage disposal system has been constructed, wholly or partly, in fill, the fill shall be properly placed and compacted to minimize settlement or it shall be allowed to settle for a minimum of 12 months,

whichever occurs first. The fill material shall be clean coarse washed sand or other clean granular material essentially free from clay fines, dust, organic matter, large stones, masonry, stumps, frozen clumps of earth, wood, tree branches and waste construction material and shall have a percolation rate of less than two minutes per inch before and after placement. Before the fill is put in place, all trees, brush and stumps shall be removed from the area to be filled. Topsoil, peat and other impervious materials shall be removed from all areas beneath the leaching facility for a distance of 25 feet in all directions therefrom when the leaching facility is above natural ground elevation; or impervious materials shall be removed for 10 feet in all directions therefrom when the leaching facility is below the natural ground elevation. No sewage disposal system shall be constructed in fill placed upon impervious material, unless the requirements of § 223-31 have been met. All fill is to be certified by the designer or a registered professional engineer that it meets the requirements of this section.

§ 223-21. Multiple use.

The use of a subsurface disposal system by more than one lot is prohibited.

§ 223-22. Maintenance.

Every owner or agent of premises in which there are any private sewers, individual sewage disposal systems or other means of sewage disposal shall keep the sewers and disposal systems in proper operational condition and shall have such works cleaned or repaired at such time as ordered by the Board of Health. If the owner or agent of the premises fails to comply with such order, the Board of Health may cause the works to be cleaned or repaired and all expenses incurred to be paid by the owner. Sewage disposal works shall be maintained in a manner that will not create objectionable conditions or cause the works to become a source of pollution to any of the waters of the commonwealth.

§ 223-23. Discharge to ground surface.

No sanitary sewage shall be allowed to discharge or spill onto the surface of the ground or to flow into any gutter, street, roadway or public place, nor shall such material discharge into any private property.

§ 223-24. Flow measurement.

Meters, dosing counters or other flow measuring devices shall be installed to record accurately the flow of sewage when required by the Board of Health or the Department of Environmental Quality Engineering.

§ 223-25. Reserve area.

A reserve area of at least equal capacity, suitable for subsurface sewage disposal and upon which no permanent structure will be constructed, must be provided for all sewage disposal systems.

ARTICLE III

Location**§ 223-26. General requirements.**

The location and installation of each individual sewage disposal system or other means of disposal shall be such that, with responsible maintenance, it will function in a satisfactory manner and will not create a nuisance or discharge into any watercourse of the commonwealth. In determining a suitable location for the system, consideration shall be given to the size and the shape of the lot, slope, natural and adjusted drainage, existing and known future water supplies, depth to groundwater, presence of impervious material, soil classifications and reserve area. No disposal works construction permit, as described in § 223-2, shall be issued until a representative of the approving authority has:

- A. Performed a site examination.
- B. Witnessed deep observation holes.
- C. Witnessed percolation tests.
- D. Approved the proposed sewage disposal plan.

§ 223-27. Site examination.

The site examination shall be made to determine if the size of the lot is compatible with the proposed sewage disposal system and should be made with regard to the distances outlined in § 223-32 and the requirements of § 223-6.

§ 223-28. Deep observation holes.

- A. The purpose of the deep observation hole is to determine the character of the soil in the leaching area and specifically to determine the groundwater elevation and the presence of impervious material. On any lot, in the area to be used for leaching, except as noted below, there will be at least two observation holes, plus any additional number which, in the opinion of the approving authority, will be necessary to determine the consistency (or lack thereof) of the character of the soil. The observation holes shall be examined to a depth of at least four feet below the bottom of the proposed leaching facility but in no case shall be lower than 10 feet, unless this depth is unattainable because of bedrock, etc. The groundwater elevation should be determined when the groundwater is at its maximum elevation.
- B. Exception. In cases where three or more contiguous single-family uses are being examined at the same time by the same engineer, the requirement of two deep observation holes per lot is reduced to one deep observation hole per lot, provided that the character of the soils remains consistent in the opinion of the approving authority. The deep

observation holes shall be conducted in the area to be used for leaching on each lot.

§ 223-29. Percolation test.

The purpose of the percolation test is to determine the suitability of the soil at the leaching elevation and to a depth of four feet below this elevation. In cases where the soil varies with depth as indicated by the deep observation holes, percolation tests at various elevations may be required by the approving authority.

- A. At least two percolation tests shall be performed at the site of each disposal area in the soil to be used for leaching. Additional tests will be required where the soil structure varies or where large disposal areas are required. Percolation tests can be performed at any time of the year.
- B. Percolation tests, as prescribed in this section, shall be performed, at no expense to the approving authority, by a registered professional engineer. All percolation tests shall be performed in the presence of a representative of the approving authority. The cost of labor and equipment necessary to dig observation holes and the provision of water for the performance of percolation tests shall not be at the expense of the approving authority.
- C. Percolation tests shall not be made in holes that have remained open to the atmosphere for more than three days, nor shall they be made in frozen soil. Percolation tests may be performed when the elevation of the soil to be tested is below the frozen soil layer.
- D. Percolation tests shall not be made in filled ground unless the requirements of § 223-20 have been made.
- E. The minimum leaching area to be installed shall be determined from the following table, with the estimated sewage flow as determined in accordance with § 223-16. The slowest percolation rate obtained shall govern leaching area requirements.

Leaching Area Requirements^{1, 4, 6, 7, 8}

Sidewall Area^{2, 9}

Percolation Rate

| (minutes per inch) | Square Feet Per Gallon | Gallons Per Square Foot | Bottom Area³ |
|---------------------------|-------------------------------|--------------------------------|--------------------------------|
| 0.0 to 10.0 | 1.0 | 1.00 | |
| 15.0 | 1.5 | 0.67 | |
| 20.0 | 2.0 | 0.50 | |
| 25.0 | 2.5 | 0.40 | |
| 30.0 | 3.0 | 0.33 | |

Leaching Area Requirements^{1, 4, 6, 7, 8}**Sidewall Area^{2, 9}****Percolation Rate**

| (minutes per inch) | Square Feet Per Gallon | Gallons Per Square Foot | Bottom Area³ |
|---------------------------|-------------------------------|--------------------------------|--------------------------------|
| Over 30.0 ⁵ | Unsuitable | | |

NOTES:

¹ Leaching fields: see Article XV.

² Sidewall area is the pervious vertical interface of the excavation for the leaching facility below the invert elevation of the inlet, or the lowest invert elevation of the distribution line.

³ Bottom area will not be considered as part of the leaching facility without prior approval of the Board of Health.

⁴ Systems for more than 2,000 gallons per day shall not be installed where the percolation rate is slower than 20 minutes per inch.

⁵ Soil with a percolation rate over 30 minutes per inch is considered impervious and, therefore, unsuitable for the subsurface disposal of sewage.

⁶ Garbage grinders are not allowed.

⁷ Sewage systems to be constructed in fill must be designed according to the percolation rate of the underlying original soil.

⁸ See Illustrations A and B (on file in the Town offices).

⁹ Minimum allowable square footage by the Southborough Board of Health is 450 square feet of sidewall area only.

§ 223-30. Percolation test procedures.

- A. Prepare test hole into the proposed leaching strata, within the disposal area, of 12 inches in diameter with vertical sides, 18 inches deep.
- B. Establish a fixed point at the top of the test hole from which all measurements can be taken.
- C. Scratch the bottom and sides of the test hole to remove any smeared soil surfaces. Either add two inches of coarse sand to protect the bottom from scouring or insert a board or other impervious object in the hole so that water may be poured down or on it during the filling operation.
- D. Carefully fill the hole with clear water to a minimum depth of 12 inches and maintain the water level by adding water as necessary for the

purpose of soil saturation, but in no case less than 15 minutes after first filling the hole.

- E. After saturation, if the water level drops to a depth of nine inches in less than 30 minutes, measure the length of time in minutes for it to drop from a depth of nine inches to a depth of six inches. If the rate is erratic in the opinion of the approving authority, the hole shall be refilled and soaked until the drop per increment of time is steady. The time for the level to drop from a depth of nine inches to a depth of six inches divided by three will be the percolation rate in minutes per inch.
- F. If the initial three-inch drop requires more than 30 minutes (rate equal to more than 10 minutes per inch), the soil shall be saturated by filling the hole to the top and maintaining it full for at least four hours. The soil shall then be permitted to swell overnight so that the soil conditions will approach those which exist during the wettest season of the year. After the overnight swelling period, the test shall be made again by filling the hole to a twelve-inch depth and maintaining that level for 15 minutes, letting the level drop to nine inches, then timing the drop between nine inches and six inches. The time elapsed between nine inches and six inches, divided by three shall be the percolation rate.
- G. In certain soils, particularly coarse sand, the soil is so pervious as to make the percolation test as described above difficult, impractical and meaningless. Therefore, at the discretion of the approving authority, the test, as described above, may be waived, and a rate of two minutes per inch can be assumed, provided that at least 24 gallons of water is added to the percolation hole within 15 minutes and it is impossible to obtain a liquid depth of nine inches or the percolation rate is faster than 30 seconds per inch.

§ 223-31. Required depth for pervious material.

Subsurface sewage disposal systems shall be located in an area where there is at least a four-foot depth of naturally occurring pervious soil below the entire area of the leaching facility. The naturally occurring pervious soil shall have a percolation rate less than or equal to 30 minutes per inch, or 20 minutes per inch for systems over 2,000 gallons per day, and the four-foot stratum must be free of impervious material, such as layers of clay, silt, subsoil or loam.

§ 223-32. Required distances.

No disposal facility shall be closer than the distances stated to the components listed in the following table. The distance shall be increased where required by conditions peculiar to a location.

| Component | Distances^{1, 2} | | | |
|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|--------------------------------------|-------------------------|
| | Septic Tank (feet) | Leaching Facility (feet) | Building Sewer (feet) | Privy (feet) |
| Well or suction line | 50 | 100 ¹ | — ³ | 100 ¹ |
| Water supply line (pressure) | — ⁴ | — ⁴ | — ⁴ | — ⁴ |
| Property line | 10 | 10 | — | 30 |
| Cellar wall or in- ground swimming pool | 10 | 20 | — | 30 |
| Surface water supplies (reservoirs or tributaries to reservoirs), including open and subsurface drains | 50 ^{2, 5} | 100 ^{1, 2, 5} | — ⁵ | 100 ^{1, 2, 5} |
| Watercourses | 25 ^{2, 5} | 50 ^{2, 5} | — | 50 ^{2, 5} |
| Subsurface drains | 25 | 25 | — | 25 |
| Leaching catch basin or dry well | — | 25 | — | — |
| Downhill slope (measured from the top of the leaching facility) | 150 times the slope (expressed as a fraction) (See Illustrations A, B, C, on file in Town offices.) | | | |

NOTES:

¹ One hundred feet is a minimum acceptable distance, and no variance shall be granted for a lesser distance, except with prior written approval of the Department of Environmental Quality Engineering.

² All distances shall be measured from the average of the mean annual flood elevation in inland areas and from mean high water in coastal areas.

³ Ten feet if constructed of durable corrosion-resistant material with water tight joints or 50 feet if any other type of pipe is used.

⁴ It is suggested that the disposal facilities be installed at least 10 feet from the 18 inches below water supply lines. Wherever sewer lines must cross water supply lines, both pipes shall be constructed of Class 150 pressure pipe and should be pressure tested to assure watertightness.

NOTES:

⁵ The applicant should be aware of his obligation to comply with the requirements of the Wetlands Protection Act. MGL c. 131, § 40.

ARTICLE IV

Building Sewers in Unsewered Areas**§ 223-33. Size.**

The building sewer shall be of such size as required by the approving authority to serve the connected fixtures. In no case shall the building sewer be less than four inches in diameter.

§ 223-34. Materials.

The building sewer shall be constructed of cast iron, Schedule 40 PVC, vitrified clay, asbestos cement or other material acceptable to the approving authority.

§ 223-35. Joints.

All pipe joints of the building sewer shall be made watertight and protected against damage from roots. Poured-type joints shall be properly wiped on the inside to present no obstruction to flow.

§ 223-36. Base.

The building sewer shall be laid on a firm base.

§ 223-37. Grade.

The building sewer shall be designed to provide a minimum velocity of sewage flow of two feet per second when flowing full. This requirement is met when a four-inch building sewer is laid at a slope of not less than 0.01 (1/8 inch per foot). A slope of 0.02 (1/4 inch per foot) is desirable.

§ 223-38. Alignment.

The building sewer shall be laid on a continuous grade and as nearly as possible in a straight line.

§ 223-39. Manholes.

Manholes, with metal frames and covers at grade, shall be provided at the junction of two or more sewers and at intervals no greater than 300 feet, except that manholes will not be necessary where building sewers join lateral sewers if a long radius bend is provided. All gravity sewer manholes shall have an open channel depth equal to or greater than the diameter of the inlet sewer, and the change of direction in each manhole shall not exceed 90° (change of direction of flow and imaginary extension of the original direction of flow).

§ 223-40. Ventilation.

The building sewer shall be vented through the vent stack or main vent of the building served by it, and no trap shall be installed in the building sewer or building drain.

ARTICLE V
Grease Traps

§ 223-41. Installation.

Grease traps must be provided at installations such as restaurants, nursing homes, schools, hospitals or other installations from which large quantities of grease can be expected to discharge.

§ 223-42. Location.

Grease traps shall be installed in a separate building sewer serving that part of the plumbing system into which the grease will be discharged. The discharge from the grease trap must flow to a properly designed septic tank or building sewer prior to the septic tank.

§ 223-43. Capacities.

Grease traps shall have a minimum depth of four feet and a minimum capacity of 1,000 gallons and shall have sufficient capacity to provide at least a twenty-four-hour detention period for the kitchen flow. Kitchen flow shall be calculated in accordance with § 223-16.

§ 223-44. Construction.

Grease traps shall be watertight and constructed of sound and durable materials not subject to excessive corrosion, decay or frost damage or to cracking or buckling due to settlement or backfilling. Tanks and covers shall be designed and constructed so as to withstand normal structural loadings. A tank installed in groundwater shall be weighted to prevent the tank from floating when it is emptied.

§ 223-45. Depth of tees.

The inlet tee shall extend to the mid depth of the tank. The outlet tee shall extend to within 12 inches of the bottom of the tank. Tees shall be cast iron or Schedule 40 PVC and properly supported by a hanger, strap or other device.

§ 223-46. Baffles.

Baffles may be provided as necessary to maximize the separation of grease from the sewage. Baffles may not be considered as a substitute for inlet and outlet tees.

§ 223-47. Base.

Grease traps shall be installed on a level, stable base that will not settle.

§ 223-48. Materials.

Grease traps may be constructed of poured reinforced concrete or prefabricated material acceptable to the approving authority.

§ 223-49. Access manholes.

Grease traps shall be provided with a minimum twenty-four-inch diameter manhole frame and cover to grade over the inlet and outlet.

§ 223-50. Accessibility.

Grease traps shall be located on the lot so as to be accessible for servicing and cleaning.

§ 223-51. Invert elevation.

The invert elevation of the inlet of a grease trap shall be at least two inches above the invert elevation of the outlet. Inlet and outlet shall be located at the center line of the tank and at least 12 inches above the maximum groundwater elevation.

§ 223-52. Backfill.

Backfill around the grease trap shall be placed in such a manner as to prevent damage to the tank.

§ 223-53. Cleaning.

Grease traps shall be inspected monthly and shall be cleaned when the level of grease is 25% of the effective depth of the trap, at least every three months.

ARTICLE VI
Septic Tanks

§ 223-54. Capacity.

A septic tank shall have an effective liquid capacity of not less than 150% of the design flow estimated, but in no case less than 1,000 gallons.

§ 223-55. Garbage grinders.

Garbage grinders are not allowed.

§ 223-56. Liquid depth.

The liquid depth of the tank shall be a minimum of four feet. The tank may be oval, circular, rectangular or square in plan provided that the distance between outlet and inlet of the tank is at least equal to the liquid depth of the tank.

§ 223-57. Multicompartment tanks.

Multicompartment tanks with transverse baffles may be used, provided that:

- A. The number of compartments does not exceed two.
- B. The total capacity is not less than 2,000 gallons.
- C. The capacity of the first compartment is at least equal to the capacity of the second compartment.

§ 223-58. Tanks in series.

Tanks in series may be approved, provided that the capacity of the first tank is at least equal to the required capacity pursuant to § 223-54 and provided that the number of tanks does not exceed two.

§ 223-59. Parallel tanks.

Septic tanks shall not be installed in such a manner that the sewage flow from a single sewer is divided, with one portion being discharged to one tank and the remaining portion being discharged to a second tank.

§ 223-60. Construction.

Septic tanks shall be watertight and constructed of sound and durable material not subject to excessive corrosion, decay or frost damage or to cracking and buckling due to settlement or backfilling. Tanks and covers shall be designed and constructed so as to withstand anticipated loadings. Any tank installed in a location where there is high groundwater shall be weighted to prevent the tank from floating when it is emptied.

§ 223-61. Tees.

Inlet and outlet shall be of cast iron. Schedule 40 PVC or cast-in-place concrete and shall extend a minimum of six inches above the flow line of the septic tank and be on the center line of the septic tank located directly under the cleanout manhole. There shall be an air space of at least three inches between the tops of the tees and the inside of the tank cover, and the tops of the tees shall be left open to provide ventilation, or separate ventilation shall be provided.

§ 223-62. Depth of tees.

The inlet tee (baffles are not acceptable) shall extend a minimum of 10 inches below the flow line. The outlet shall be provided with a tee extending below the flow line in accordance with the following table:

| Liquid Depth in Tank | Depth of Outlet Tee Below Low Line |
|-----------------------------|-------------------------------------------|
| (feet) | (inches) |
| 4 | 14 |
| 5 | 19 |
| 6 | 24 |
| 7 | 29 |
| 8 | 34 |

§ 223-63. Base.

Septic tanks shall be installed on a level, stable base that will not settle.

§ 223-64. Materials.

Septic tanks may be constructed of poured reinforced concrete, precast reinforced concrete or prefabricated materials acceptable to the approving authority.

§ 223-65. Access manholes.

At least one twenty-four-inch manhole with readily removable cover of durable material shall be provided for each compartment. Inlet and outlet tees shall be made accessible for cleaning by providing manholes over the tees. Manhole covers for septic tanks serving single-family dwellings shall not be more than 12 inches below finished grade and may, at the discretion of the approving authority, be required to be brought to finished grade. Septic tanks serving other establishments with flows under 2,000 gallons per day shall be provided with at least one twenty-four-inch diameter manhole located over the inlet tee and a metal frame and cover to finished grade. Septic systems designed for flows in excess of 2,000 gallons per day shall be provided with at least two twenty-four-inch diameter manholes

(over inlet and outlet tees), with metal frames and covers at finished grade. Distance between access manholes shall not exceed 18 feet on center.

§ 223-66. Accessibility.

Septic tanks shall be located on the lot so as to be accessible for servicing and cleaning.

§ 223-67. Invert elevation.

The invert elevation of the inlet of a septic tank shall be at least two inches above the invert elevation of the outlet.

§ 223-68. Backfill.

Backfill around the septic tank shall be placed in such a manner as to prevent damage to the tank.

§ 223-69. Cleaning.

Septic tanks should be inspected and cleaned annually.

§ 223-70. Invert elevation of outlet.

The invert elevation of the septic tank outlet shall be at least one foot above the maximum groundwater elevation.

§ 223-71. Pumping to septic tank.

Pumping of sewage to a septic tank shall not be allowed without the written approval of the Department of Environmental Quality Engineering.

ARTICLE VII
Dosing Tanks

§ 223-72. When required.

A dosing tank shall be provided for a leaching chamber and leaching field system where the volume of waste to be disposed of is an excess of 2,000 gallons per day.

§ 223-73. Alternation.

Dosing shall alternate when the total volume of waste to be disposed of exceeds 5,000 gallons per day. Alternating siphons and pumps shall discharge to separate disposal areas of equal size.

§ 223-74. Capacity.

Dosing tanks shall have the capacity to discharge a volume adequate to cover the dosed leaching area to a depth of at least one inch in not over 15 minutes.

§ 223-75. Construction.

Dosing tanks shall be constructed of concrete or other material as approved by the Department of Environmental Quality Engineering and shall conform to § 223-60 of this chapter and shall be cast without joints and shall be watertight if installed below groundwater level.

§ 223-76. Base.

Dosing tanks shall be constructed on a level, stable base that will not settle.

§ 223-77. Ventilation.

Dosing tanks shall be constructed in a manner that will permit venting through the building sewer or other suitable outlet.

§ 223-78. Invert elevation of inlet.

The invert elevation of the inlet shall be at least one foot above maximum groundwater elevation, and the tank shall be waterproof and watertight.

§ 223-79. Manholes.

To provide access and to facilitate repair or adjustment of the siphons or pumps, dosing tanks should be provided with manholes at least 24 inches in diameter, with metal frames and covers to grade over each pump or siphon.

§ 223-80. Inspection.

Annual inspections are recommended to determine if the pumps or siphons are in working order.

ARTICLE VIII

Siphons**§ 223-81. Construction.**

Siphons shall be constructed of cast iron or other material approved by the Department of Environmental Quality Engineering and shall be installed in strict conformance with manufacturers' specifications.

ARTICLE IX

Pumps**§ 223-82. Location.**

Pumps shall not be installed prior to a septic tank without approval of the Department of Environmental Quality Engineering.

§ 223-83. Number.

At least two pumps shall be installed, except in cases where repairs to systems under 1,000 gallons per day are being made or for single-family residences.

§ 223-84. Installation.

All pumps shall be installed in strict conformance with the manufacturer's specifications. Pumps for settled sewage shall be capable of passing at least one-and-one-fourth-inch solids.

§ 223-85. Controls.

- A. Pump control shall be moistureproof and shall operate in the following sequence:
 - (1) Pumps off.
 - (2) Lead pump on.
 - (3) Alarm and lag pump on.
- B. Pumps must alternate and, in cases where the flow is in excess of 5,000 gallons per day, they must service separate disposal areas.

§ 223-86. Alarms.

All pumps shall be equipped with an alarm powered by a circuit separate from the pump power.

§ 223-87. Standby power.

Standby power shall be provided at apartment houses, condominiums, elderly housing and all other premises which are not vacated during power failure. An empty emergency overflow tank with a twenty-four-hour storage capacity may be substituted where such tank can be placed above groundwater.

ARTICLE X
Distribution Boxes

§ 223-88. When required.

A distribution box shall be installed between a septic tank and a leaching facility to provide equal distribution.

§ 223-89. Inlet tee cutoff.

Where the distribution system is dosed or the slope of the inlet pipe is greater than 0.08, the distribution box shall be provided with an inlet tee cutoff one inch above the outlet invert.

§ 223-90. Outlet elevation.

The invert elevation of all outlets shall be the same and shall be at least two inches below the inlet. Outlet pipes shall be level for at least two feet.

§ 223-91. Sump.

The distribution box shall be provided with a sump extending six inches below the bottom of the outlet pipe.

§ 223-92. Construction.

Distribution boxes shall be constructed of concrete or other durable material. They shall be watertight and designed to accommodate the necessary distribution laterals.

§ 223-93. Number of outlets.

There shall be at least one four-inch outlet for every pair of four-inch distribution laterals and at least one six-inch outlet for every two pairs of four-inch distribution laterals.

§ 223-94. Base.

Distribution boxes shall be installed on a level, stable base that will not settle.

§ 223-95. Ventilation.

The distribution box shall be constructed in such a manner as to provide ventilation of the disposal field, either through a special vent or back through the building sewer.

§ 223-96. Manholes.

Distribution boxes shall be provided with readily removable covers of durable material. Systems designed for over 20,000 gallons per day shall

have a minimum eighteen-inch manhole over each distribution box, with metal frame and cover to finished grade.

ARTICLE XI
Leaching Pits

§ 223-97. Use preferred.

Leaching pits are preferred where their installation is possible.

§ 223-98. Determination of area.

The leaching area required shall be determined in accordance with the provisions of Article III. The leaching area shall be considered as the sidewall areas of the excavation below the invert of the inlet. Impervious area of the sidewall below the inlet shall not be considered as available leaching area.

§ 223-99. Spacing.

When more than one leaching pit is installed, they shall be designed such that they will function in parallel, and the distance between excavation sidewalls shall be no less than twice the effective width of the pit, whichever is greater.

§ 223-100. Construction above groundwater level.

Leaching pits shall not be constructed in areas where the maximum groundwater elevation is less than four feet below the bottom of the excavation.

§ 223-101. Manholes.

There shall be a minimum of one inspection manhole per pit. For systems designed for over 20,000 gallons per day, the manholes shall be at least 18 inches in diameter, with metal frames and covers to finished grade.

§ 223-102. Construction.

The lining of the pit shall be constructed of brick perforated concrete or interlocking concrete blocks laid dry with open joints on a manner to prevent displacement. At least 12 inches, and not more than 48 inches, of 3/4 inch to 1 1/2-inch stone shall be placed around the liner. The liner shall be built to allow the liquid to pass easily through openings to the surrounding stone. The cover shall be constructed of reinforced concrete or other approved material.

§ 223-103. Stone standards.

The stone shall consist of washed stone ranging from 3/4 inch to 1 1/2 inch in size and shall be free of iron, fines and dust in place. The stone shall be covered with at least a two-inch layer of washed stone, ranging from 1/8 inch to 1/2 inch in size, and shall be free of iron, fines and dust in place.

All stone must have less than 2% material finer than a No. 200 sieve as determined by the AASHTO Test Methods T-11 and T-27 (latest edition).

§ 223-104. Reserve area.

A reserve area sufficient to replace the capacity of the original leaching area must be provided. The area between the leaching pits may not be used for part of the reserve area.

§ 223-105. Impervious material.

Excavations through impervious material may be allowed if at least four feet of naturally occurring pervious material, as demonstrated by a percolation test, remains beneath the lowest point of excavation. All construction after excavation through impervious material shall be in accordance with § 223-20.

§ 223-106. Surface drainage.

The grade above and adjacent to a leaching pit system shall slope at least 2% to prevent accumulation of surface water.

§ 223-107. Cover material.

The minimum depth of cover material over the stone shall be 12 inches. Earth materials used to cover leaching pit systems shall be free of large stones, frozen clumps of earth, masonry or waste construction material. Machinery which may crush or disturb the alignment of pipe in the disposal system shall not be allowed on any part of the disposal system.

§ 223-108. Sloping ground.

When pits are built at different elevations, construction shall be such as to prevent the sewage from upper pits from flowing into lower pits.

§ 223-109. Method of excavation.

Excavation may be made by machinery, provided that the soil at the bottom of the disposal system is not compacted. The bottom of each system shall be level.

§ 223-110. Systems under areas of traffic.

When leaching pit systems are constructed under areas subject to vehicular traffic, the pits shall be capable of withstanding H-20 wheel loads.

§ 223-111. Frozen conditions.

No pits shall be constructed in frozen soil. Pits may be constructed in cases where the construction elevation is below the depth of the frost line.

ARTICLE XII
Leaching Galleries

§ 223-112. Special permission required.

Leaching galleries may only be used with special permission from the Southborough Board of Health.

ARTICLE XIII
Leaching Chambers

§ 223-113. Special permission required.

Leaching chambers may only be used with special permission from the Southborough Board of Health.

ARTICLE XIV
Leaching Trenches

§ 223-114. Determination of area.

The leaching area required shall be determined in accordance with the provisions of Article III. The leaching area shall be considered as the sidewall area of the excavation below the invert of the inlet. Impervious area of the sidewall below the inlet shall not be considered as available leaching area.

§ 223-115. Construction above groundwater level.

Leaching trenches shall not be constructed in areas where maximum groundwater elevation is less than four feet below the bottom of the trench.

§ 223-116. Spacing.

When more than one leaching trench is installed, the distance between excavation sidewalls shall be no less than twice the effective width or twice the effective depth of the trench, whichever is greater. In no case shall the distance between the excavation sidewalls be less than four feet.

§ 223-117. Width.

The minimum width of the leaching trench bottom shall be 24 inches.

§ 223-118. Length.

The maximum length of each leaching trench shall be 100 feet.

§ 223-119. Construction.

Distribution lines shall have a minimum diameter of four inches and shall be laid true to line and grade. The distribution pipe shall consist of vitrified clay pipe laid with an adequate number of open joints. All distribution pipes from the distribution box to the leaching trench shall be unperforated and shall be laid with tight joints. The depth to the crown of the pipe forming the distribution lines shall be not less than 12 inches from finished grade. The distribution pipe shall have a minimum slope of 0.005.

§ 223-120. Stone standards.

The stone shall consist of washed stone, ranging from 3/4 inches to 1 1/2 inches in size, and shall be free of iron, fines and dust in place. It shall extend the full width of the trench and shall not be less than 12 inches minimum and 30 inches maximum beneath the bottom of the distribution pipes. The stone shall be covered with at least a two-inch layer of washed stone, ranging from 1/8 to 1/2 inch in size, and shall be free of iron, fines and dust in place. All stone must have less than 0.2% material finer than

a No. 200 sieve, as determined by the AASHTO Test Method T-11 and T-27 (latest edition).

§ 223-121. Reserve area.

A reserve area sufficient to replace the capacity of the original leaching area must be provided. The area between leaching trenches shall not be considered, for design purposes, as part of the reserve area.

§ 223-122. Impervious material.

Excavations into or fill upon impervious material shall not be allowed. Excavations through impervious material may be allowed if at least four feet of naturally occurring pervious material, as demonstrated by a percolation test, remains beneath the lowest point of excavation. All construction after excavation through impervious material shall be in accordance with § 223-20.

§ 223-123. Surface drainage.

The grade above and adjacent to a leaching trench shall slope at least 2% to prevent the accumulation of surface water.

§ 223-124. Cover material.

The minimum depth of cover material shall be 12 inches. Earth materials used to cover leaching trench systems shall be free of large stones, frozen clumps of earth, masonry, stumps or waste construction material. Machinery which may crush or disturb the alignment of pipe in the disposal system shall not be allowed on any part of the disposal area.

§ 223-125. Sloping ground.

When trenches are built at different elevations, construction shall be such as to prevent sewage from upper trenches from flowing into lower trenches.

§ 223-126. Manner of excavation.

Excavation may be made by machinery, provided that the soil at the bottom of the disposal trench is not compacted. The bottom of each trench shall be level.

§ 223-127. Location.

When leaching trench systems are constructed under areas subject to vehicular traffic, the trenches shall be capable of withstanding H-20 wheel loads.

§ 223-128. Frozen conditions.

No trench shall be constructed in frozen soil. Trenches may be installed in cases where the construction elevation is below the depth of the frost line.

§ 223-129. Ventilation.

Leaching trench systems designed to be dosed must be vented at the downstream end of the system.

ARTICLE XV
Leaching Fields

§ 223-130. Special permission required.

Leaching fields may be used only with special permission of the Southborough Board of Health.

ARTICLE XVI

Privies and Chemical Toilets**§ 223-131. Approval required.**

A privy or chemical toilet shall not be constructed or continued in use unless the Board of Health has approved, in writing, its construction or continued use based upon a determination by the Board of Health that the privy or chemical toilet will not endanger the health of any person or cause a nuisance.

§ 223-132. Location.

Privies shall be located in accordance with the requirements of Article III of this chapter. No variance from any of the percolation rate requirements or leaching area loading rates outlined in this chapter shall be allowed for the disposal of gray water from a lot to be served by a privy or chemical toilet, but a reduction not to exceed 40% of the design flow for subsurface sewage disposal may be allowed for the reduced water usage.

§ 223-133. Construction.

Privies shall be constructed with self-closing seat covers and fly-tight vaults and with a screened vent from the vault to the atmosphere.

§ 223-134. Maintenance.

When a privy vault becomes filled to within two feet of the surface of the ground, it shall either be cleaned and the contents disposed of in a sanitary manner approved by the Board of Health or it shall be covered with a minimum of two feet of clean compacted earth.

ARTICLE XVII
Humus Toilets

§ 223-135. Approval required.

A humus toilet shall not be constructed or continued in use unless the Board of Health has approved, in writing, its construction or continued use based upon determination by the Board of Health that the toilet will not endanger the health of any person or cause a nuisance and that the end product will be disposed of in a sanitary manner.

§ 223-136. Location.

Humus toilets shall only be located where a full-sized, properly functioning subsurface disposal system is available or can be constructed on the lot to be served in compliance with this chapter or where a common sanitary sewer is accessible in an abutting way and where permission to enter such a sewer can be obtained from the authority having jurisdiction over it. No variance from any of the percolation rate requirements or leaching area loading rates outlined in this chapter shall be allowed for the disposal of gray water from a lot to be served by a humus toilet, but a reduction not to exceed 40% of the design flow for subsurface sewage disposal may be allowed for the reduced water usage.

§ 223-137. Maintenance.

The end product from a humus toilet may be disposed of by burial in a manner and location approved by the Board of Health, and it shall be covered with a minimum of two feet of compacted earth.

ARTICLE XVIII

Miscellaneous Disposal**§ 223-138. Approval required.**

The use of any disposal facility other than those described herein is prohibited unless approved in writing by the Department of Environmental Quality Engineering. It is the intent of this chapter that the Department shall approve innovative disposal systems if it can be demonstrated that their impact on the environment and hazard to the public health is not greater than that of other approved systems. No variances to this Article shall be granted.

§ 223-139. Connection with sewage disposal systems.

No rainwater leader, cooling-water drain, cellar drain or other drain, other than one for sanitary sewage, shall discharge into or be connected with any sewage disposal system.

§ 223-140. Leaching catch basins.

No leaching catch basins or dry wells designed for the collection of surface drainage shall be allowed within 25 feet of any leaching facility of a subsurface sewage disposal system.

ARTICLE XIX

Transportation and Disposal of Privy, Cesspool and Septic Tank Contents**§ 223-141. Permits required.**

No person shall engage in the pumping or transportation of the contents of privies, cesspools, septic tanks or other offensive substances without first obtaining a permit from the Board of Health in accordance with MGL c. 111, § 31A, and § 223-4 of this chapter.

§ 223-142. Inspection and approval of equipment.

No person shall use equipment to remove or transport the contents of privies, cesspools or septic tanks or other offensive substances unless such equipment has first been inspected and approved by the Board of Health.

- A. Mobile tank. Mobile tanks shall be securely mounted on trucks. They shall be watertight and provided with a leakproof cover and tight discharge valves.
- B. Venting of mobile tanks. Mobile tanks shall be provided with a vent constructed in a manner that will permit the escape of gas, but not the liquid contents of the truck.
- C. Hose, Suction or pressure hose shall be in good repair.
- D. Pumps. Pumps shall be maintained in a condition that will prevent the leakage of the sewage.

§ 223-143. Disposal.

Disposal of the substances listed in § 223-141 of this chapter shall be by discharge to a sanitary sewer or to works designed for the purpose. If disposal is by discharge into a sanitary sewer, it shall be in a manner and at such times as may be acceptable to the authority having jurisdiction over the sewer. If disposal is by works designed for the purpose, the area shall be in a location approved in writing by the Board of Health. The location and method of disposal must be approved in writing by the Department of Environmental Quality Engineering.

§ 223-144. Manner of transportation.

The contents of privies, cesspools and septic tanks shall be transported in a manner that will not create a nuisance or health hazard.

§ 223-145. Intercommunity disposal.

The contents of privies, chemical toilets, septic tanks, holding tanks or other sewage waste receptacles originating in any City or Town may be disposed of in a sanitary manner in any other City or Town, subject to the written approval of the Boards of Health of the municipalities in which

the wastes originate and the disposal works are located and the written approval of the authority having control of the receiving sewer of the disposal site. If disposal is into a sewer tributary to the Metropolitan District Commission Sewerage System, written approval of the Commission shall also be obtained.

§ 223-146. Fees.

A fee for the issuance of a permit for the pumping or transportation of the contents of privies, cesspools or septic tanks or other offensive substances may be charged by the Board of Health at any time an application is made for the permit.

ARTICLE XX
Enforcement

§ 223-147. Variances.

- A. Variances may be granted only as follows: The Board of Health may vary the application of any provisions of this chapter, except where expressly forbidden elsewhere in this chapter, with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and the applicant has proved that the same degree of environmental protection required under this chapter can be achieved without strict application of the particular provision.
- B. Every request for a variance shall be made in writing and shall state the specific variance sought and the reasons therefor. No variance shall be granted for a new sewage disposal system, nor for an enlargement to an existing system which increases the capacity to accommodate additional flows, except after the applicant has notified all abutters by certified mail at his own expense at least 10 days before the Board of Health meeting at which the variance request will be on the agenda. The notification shall state the specific variance sought and the reasons therefor. Variance may be issued for the repair of an existing sewage disposal system without the requirement of notification of all abutters by the applicant.
- C. Any variance granted by the Board of Health shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons for the denial. A copy of each variance shall be conspicuously posted for 30 days following its issuance and shall be available to the public at all reasonable hours in the office of the City or Town Clerk or the office of the Board of Health while it is in effect. Notice of the grant of each variance shall be filed with the Department of Environmental Quality Engineering, which shall approve, disapprove or modify the variance within 30 days from receipt thereof. If the Department fails to comment within 30 days, its approval will be presumed. No work shall be done under the variance until the Department approves it or 30 days elapse without its comment, unless the Board of Health or the Department certifies, in writing, that an emergency exists.

§ 223-148. Conditions of variance.

- A. Any variance or other modification authorized to be made by this chapter may be made subject to such qualification, revocation, suspension or expiration as the Board of Health or Department of Environmental Quality Engineering expresses in its grant.
- B. A variance or other modification authorized to be made by this chapter may otherwise be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been

given an opportunity to be heard, in conformity with the requirements of Title 1 of the Environmental Code for orders and hearings.

§ 223-149. Enforcement authority.

The provisions of Title 1 of the Environmental Code shall govern the enforcement of this chapter as supplemented by the following sections.

§ 223-150. Service and content of orders.

- A. If an examination, as provided for in Title 1, reveals failure to comply with the provisions of this chapter, the Board of Health or Department of Environmental Quality Engineering shall order the persons responsible to comply with the violated provision.
- B. Every order authorized by this chapter shall be in writing. Orders issued under the provisions of Subsection A above shall be served on the designated person:
 - (1) Personally, by any person authorized to serve civil process;
 - (2) By leaving a copy of the order at his last and usual place of abode;
 - (3) By sending him a copy of the order by registered or certified mail, return receipt requested, if he is within the Commonwealth; or
 - (4) If his last and usual place of abode is unknown or outside the Commonwealth, by posting a copy of the order in a conspicuous place on or about the affected premises.
- C. Subject of the emergency provision of Title 1, any order issued under the provisions of this chapter shall:
 - (1) Include a statement of the violation or defect and may suggest action which, if taken, will effect compliance with this chapter;
 - (2) Allot a reasonable time for any action it requires; and
 - (3) Inform the person to whom it is directed of his right to a hearing and of his responsibility to request the hearing and to whom the request shall be made.

§ 223-151. Hearings.

- A. Procedure for requesting and holding hearing. Unless otherwise specified in this chapter, the person or persons to whom any order has been served pursuant to any section of this chapter may request a hearing before the agency that issued the order by filing with said agency, within seven days after the day the order was served, a written petition requesting a hearing on the matter. Upon receipt of such petition, the agency shall set a time and place for such a hearing and shall inform the petitioner thereof in writing. The hearing shall be commenced not later than 45 days after the day on which the order was

served. The agency, upon application of the petitioner, may postpone the date of the hearing for a reasonable time beyond such forty-five-day period if, in the judgment of the agency, the petitioner has submitted a good and sufficient reason for such postponement.

- B. Hearing of petitioner. At the hearing, the petitioner shall be given an opportunity to be heard and to show cause why the order should be modified or withdrawn.
- C. Procedure by agency after the hearing. After the hearing, the Board of Health or Department of Environmental Quality Engineering shall sustain, modify or withdraw the order and shall inform the petitioner, in writing, of its decision. If the Board of Health or Department of Environmental Quality Engineering sustains or modifies the order, it shall be carried out within the time period allotted in the original order or in the modification.
- D. Public record. Every notice, order or other record prepared by the Board of Health or Department of Environmental Quality Engineering in connection with the hearing shall be entered as a matter of public record in the office of the Clerk of the City or Town or in the office of the Board of Health or Department of Environmental Quality Engineering.
- E. Hearing petition not submitted or sustaining of order. If a written petition for a hearing is not filed with the Board of Health or the Department of Environmental Quality Engineering within seven days after the day an order has been served or if, after a hearing, the order has been sustained in any part, each day's failure to comply with the order as issued or modified shall constitute an additional offense.

§ 223-152. Appeals.

Any person aggrieved by the decision of the Board of Health or Department of Environmental Quality Engineering may seek relief therefrom within 30 days in any court of competent jurisdiction, as provided by the laws of this commonwealth.

§ 223-153. Violations and penalties.

- A. Any person who shall violate any provision of this chapter for which penalty is not otherwise provided in any of the General Laws or in any other provision of this chapter or Title 1 of the Environmental Code shall, upon conviction, be fined not less than \$10 nor more than \$500.
- B. Any person who shall fail to comply with any order issued pursuant to the provisions of this chapter shall, upon conviction, be fined not less than \$10 nor more than \$500. Each day's failure to comply with an order shall constitute a separate violation.

§ 223-154. Severability.

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

Chapter 225

ILLICIT DISCHARGE

GENERAL REFERENCES

Building construction — See Ch. 62.

Zoning — See Ch. 174.

Wetlands protection — See Ch. 170.

Subdivision of land — See Ch. 244.

§ 225-1. Purpose.

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding. Regulation of illicit connections and discharges to the Town of Southborough municipal storm drain system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- B. The objectives of this bylaw are:
- (1) To prevent illicit discharge of pollutants from entering Southborough'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.

§ 225-2. Definitions.

For the purposes of this bylaw, the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY — The Board of Health (hereafter the Board), its employees or agents designated to enforce this bylaw.

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

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

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

GROUNDWATER — Water beneath the surface of the ground.

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

ILLICIT DISCHARGE — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 225-7. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to § 225-8 of this bylaw.

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 Southborough.

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

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

PERSON — 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 Southborough, and any other legal entity, its legal representatives, agents, or assigns.

POLLUTANT — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the commonwealth. Pollutants shall include, but not be limited to, the following:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;

- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues; and
- K. Noxious or offensive matter of any kind.

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

RECHARGE — The replenishment of underground water reserves.

STORMWATER — Stormwater 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 human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

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

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.

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.

§ 225-3. Applicability.

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

§ 225-4. 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.

§ 225-5. Administration.

The Board of Health shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board or the Town of Southborough.

§ 225-6. Regulations.

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

§ 225-7. Prohibited activities.

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

§ 225-8. Exemptions.

Discharge or flow resulting from fire fighting activities are exempt. The following non-stormwater discharges or flows are also exempt from the prohibition of non-stormwaters, provided that the source will not damage or threaten public health and the environment:

- A. Waterline flushing and flow from potable water sources;

- B. Springs, natural flow from riparian habitats and wetlands, diverted stream flow and rising groundwater;
- C. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- D. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, sump pumps or air conditioning condensation;
- E. Discharge from landscape irrigation or lawn watering;
- F. Water from noncommercial car washing;
- G. Discharge from dechlorinated swimming pool or hot tub water (less than one ppm chlorine), provided the pool or hot tub is drained in such a way as not to cause a nuisance;
- H. Discharge from street sweeping, discharge of sand and deicers used for public safety purposes;
- I. Emergency repairs to the municipal storm drain system, and any stormwater management structure or practice that poses a threat to public health or safety, or as deemed necessary by the Board;
- J. Dye testing, provided verbal notification is given to the Board prior to the time of the test;
- K. Nonstormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the 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
- L. Discharge for which advanced written approval is received from the Board as necessary to protect public health, safety, welfare or the environment.

§ 225-9. Emergency suspension of storm drainage system access.

The Board 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 public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Board of Health and Health Agent may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

§ 225-10. 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 into the municipal drainage system, a wetland resource area or the 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 Southborough Fire and Police Departments and the Board of Health and Health Agent. In the event of a release of nonhazardous material, the reporting person shall notify the Board of Health and Health Agent no later than the next business day. The reporting person shall provide to the Board of Health 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.

§ 225-11. Enforcement.

The Board or an authorized agent of the Board shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- A. Orders. The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, 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.
- (1) 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, undertake such work, and expenses thereof shall be charged to the violator.
 - (2) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of

the time in which to file a protest or within 30 days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the costs first become due.

- B. Penalties. Any person who violates any provision of this bylaw, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Southborough.
- C. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the town may utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the Health Agent or other authorized agent of the town shall be the enforcing person.
- D. 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 Board, 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 Board deems reasonably necessary.
- E. Appeals. Further relief shall be to a court of competent jurisdiction.
- F. 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.

§ 225-12. 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.

§ 225-13. Transitional provisions.

Residential property owners shall have 120 days from the effective date of the bylaw to comply with its provisions, provided good cause is shown for the failure to comply with the bylaw during that period.

Chapter 226

STABLES

§ 226-1. Stable license required.

No person shall erect, occupy or use for a stable any building or portion thereof or any other facility in the Town of Southborough until a license authorizing such use is granted by the Board of Health.

§ 226-2. Restriction on keeping horses.

No person shall maintain a horse or horses anywhere in the Town of Southborough except in a stable for which a license has been issued by the Board of Health.

§ 226-3. Location requirements.

No stable or manure storage area shall be constructed closer than 150 feet to any dwelling not occupied by the owner or operator of the stable, closer than 100 feet to any well used as a source of drinking water or closer than 25 feet to a water line, sewage system, standing water or watercourse.

§ 226-4. Minimum standards.

All stables for which a license is issued by the Board of Health shall meet the following minimum standards:

- A. All stables must be operated in such a way that they do not become a nuisance to abutters or the public.
- B. All stalls and floors shall be kept clean and dry, be free from accumulated manure, have ample bedding and be treated to control odor and prevent the attraction and breeding of flies.
- C. Manure shall not be allowed to accumulate for more than two weeks between May 1 and November 1, and in no case shall the total quantity exceed two cords without a variance from the Board of Health.
- D. Manure shall be handled and treated as necessary to prevent the escape of odors and the attraction and breeding of flies.
- E. All stables must be adequately ventilated and drained.
- F. Grain must be kept in rodentproof containers.
- G. No more animals than the number specified in the license shall be kept in the stable.
- H. All animals maintained under the terms of this license must be kept under control at all times.
- I. No person shall remove or carry any manure through any public way, except in a covered container or vehicle and in such a manner that no manure shall be dropped on the street.

§ 226-5. License application.

Application for a stable license shall be in writing and upon a form provided by the Board of Health. Each application shall include the following:

- A. A plot plan, drawn roughly to scale, showing the lot or parcel where the building to be used as a stable is to be located. Said plot plan shall show the following:
 - (1) The general contour and drainage of the plot.
 - (2) The location of all sewage disposal systems, wells, brooks, swamps and the structures located on the plot or within 200 feet of the proposed stable.
 - (3) The areas to be used for storage and handling of manure.
 - (4) The location of roads, easements (such as water, drainage and conservation easements) and lot lines.
- B. The number and type of animal to be kept in the proposed stable.
- C. A plan for storing and removing manure.
- D. A floor plan of the proposed stable, showing dimensions and location of stalls and facilities for storage and handling of feed materials.

§ 226-6. License renewal.

License for stables in the Town of Southborough shall expire two years from the date of issue or upon transfer of the property. Application for renewal must be made on a form provided by the Board of Health. Said renewal application shall show any changes in the items requested in § 226-5.

§ 226-7. Variances.

The Board of Health may grant a variance from any provisions of this chapter. When a variance is granted, the conditions of it and the specific bases for it must be listed on the stable license. Any change in these bases may result in revocation of the permit.

§ 226-8. Existing stables.

Any stable operating satisfactorily prior to the effective date of this chapter is hereby granted a variance from the requirements of § 226-3.

§ 226-9. Transfer of property.

Variances under §§ 226-7 and 226-8 will continue upon the transfer of property, provided that the basis for the granting of the license are unchanged and provided that the license is unexpired and an application is made to renew the license within six months of the property transfer.

§ 226-10. Revocation of licenses.

Any stable license may be revoked at any time when the Board of Health finds such revocation necessary to protect the public health. If a holder of a stable license violates any of the rules or regulations set forth herein, the stable license shall be subject to immediate revocation.

§ 226-11. Violations and penalties.

Punishment for violation of any section of this chapter shall be as prescribed in Chapter 3, Section 157, of the General Laws of the Commonwealth of Massachusetts,⁵⁰ and any amendments or additions thereto or any other applicable statute.

§ 226-12. Severability.

So far as this Board of Health may provide, each section and subsection of this chapter shall be construed as separate to the end that if any section, subsection, item, sentence, clause or phrase shall be held invalid for any reason, the remainder of this chapter shall continue in full force and effect.

§ 226-13. Repealer.

All previous rules and regulations relating to stables in the Town of Southborough are hereby repealed.

§ 226-14. Adoption of rules and regulations.

This chapter was adopted by a vote of the Board of Health, Town of Southborough, Massachusetts, at its regularly scheduled meeting on December 12, 1972, and is to be in full force and effect on and after January 1, 1973, and shall, before said effective date, be published in a newspaper circulated in the Town, and a copy thereof shall be deposited in the office of the Town Clerk.

§ 226-15. License fee.

A fee of \$2 will be charged for each license issued.

Chapter 228**WATER SUPPLY****GENERAL REFERENCES**

Swimming pools — See Ch. 155.

Illicit discharge — See Ch. 225.

Water — See Ch. 162.

Subdivision of land — See Ch. 244.

Zoning — See Ch. 174.

50. Editor's Note: See MGL c. 111, § 157.

§ 228-1. Authority.

The Board of Health of the Town of Southborough, acting under the authority of MGL c. 3, § 31⁵¹ and amendments and additions thereto, and by any other power thereto enabling, and acting thereunder, have, in the interest of, and for the preservation of the public health, duly made and adopted the following rules and regulations.

§ 228-2. Definitions.

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

PRIVATE WATER SUPPLY — Any water system serving or intended to serve water for human consumption or for domestic uses or purposes on one lot. The system shall include all of the sources, treatment works and distribution lines to the point where distribution takes place within the building.

SEMIPUBLIC WATER SUPPLY — Any water system serving or intended to serve water for human consumption or for domestic uses or purposes including a multiple dwelling, or to restaurants, dairies, schools, institutions, motels, mobile home parks, bottling plants, campgrounds, recreational camps for children, state forests, parks and beaches.

WATER SYSTEMS — Includes pipes, valves, fittings tanks, pumps, motors, switches, controls and appurtenances installed or used for the purpose of storage, distribution, filtration, treatment or purification of water for any use whether or not inside a building.

WELL — Includes any pit, pipe excavation, spring, casing, drill hole or other source of water to be used for any purpose of supplying potable water in the Town of Southborough and shall include dug wells, driven or tubular wells, drilled wells (artesian or otherwise) and springs, gravel packed, gravel walled wells, gravel developed and wash borings and as further described in United States Environmental Protection Agency Manual of Individual Water Supply Systems.

§ 228-3. Permits required.

- A. No private or semipublic water supply shall be installed, altered or repaired until a permit has been obtained from the Board of Health or its agent. The fee for this permit shall be set by the Board from time to time. A permit so granted shall expire two years from the date of issue unless construction is begun.
- B. A plot plan shall be submitted with the application for a well permit to the Board of Health indicating the proposed location of the well, all buildings, boundary lines and septic systems (within 200 feet).

51. Editor's Note: See MGL c. 111, § 31.

§ 228-4. General requirements.

- A. No occupancy of the facilities which the well is to serve may be permitted until the well is installed, completed and has been demonstrated to supply water of the quality and quantity specified herein.
- B. The well contractor shall observe sanitary measures and precautions in the performance of his work in order to prevent pollution or contamination of the well.
- C. Well drillers must be registered with the Massachusetts Water Resources Commission.
- D. Wells shall be located at least 15 feet from any public or private way or street and 10 feet from lot lines, and 50 feet from any part of the septic system and 100 feet from any leaching area or any other such greater distance as may be required by the Board of Health. The well must also be a minimum of five feet from any building or projection thereof.
- E. The owners of a semipublic water supply shall possess and display an unrevoked permit from the Board of Health which signifies the status of sanitary protection, maintenance, operation and improvements recommended.
- F. Pump houses or pump rooms shall be kept in sanitary condition at all times. Also the size of the room should be no larger than necessary to house the pumping and the electrical equipment involved in the water system. Lawnmowers, snowblowers or other gas driven engines shall not be stored in the pump room. Insecticides, herbicides and/or fertilizers and the like shall not be stored in the pump room.
- G. Pump house, pump or pipe pits and wells shall be designated and constructed so as to prevent flooding and otherwise to prevent the entrance of pollution or contaminants.
- H. Pump houses, pump rooms and pitless adapters shall be installed in accordance with the Individual Water System Manual.
- I. No person shall install or enter into a contract for installing or making additions, modification, or alterations to any semipublic water supply before submitting complete plans, specifications and descriptions to the Board of Health and receive from them written approval. Private and semipublic water supply systems shall be approved by the Board of Health before occupancy is permitted.

§ 228-5. Well specifications.

- A. There shall be a minimum yield of 200 gallons per bedroom per day at 20 pounds per square inch at the highest fixture serviced. A bedroom shall include undeveloped area that could be made into a bedroom.

System capacity for semipublic water supplies must be adequate to meet the projected needs.

- B. Pressure tanks for individual home installations shall be diaphragm type and have a minimum capacity of 36 gallons.
- C. Quantity tests shall be performed by competent pump or well drilling contractors and a well shall produce a supply for each dwelling unit served by an on-site well as follows:

| Well Drawing Depth | Gallons Per Minute Per 4 Hours |
|---------------------------|---------------------------------------|
| (feet) | (minimum) |
| 0 to 150 | 5 to 6 |
| 150 to 200 | 4 |
| 200 to 300 | 3 |
| 300 and over | 2 |

- D. Auxiliary power must be available to maintain a water supply for multiple dwellings. The wall of a dug well shall extend at least four inches above the floor or the original ground surface.
- E. A pitless adapter shall be provided such that the permanent watertight casing of the well shall terminate a minimum of 12 inches above finished grade and/or the elevation of one-hundred-year flood.
- F. Well must be curbed and covered to prevent entrance or contamination and to divert surface drainage away from the well.
- G. Pipes and equipment.
 - (1) All service pipes and connections shall be of nontoxic material and meet the specifications approved by the New England Water Works Association.
 - (2) The installation of pipes shall be such that they are protected from crushing, freezing and/or attack by rodents.
 - (3) Dissimilar metals should be discouraged in the water system. The use of nonconductive plastic inserts between pipes and fittings or the installation of sacrificial anodes is helpful in minimizing electric corrosion problems.
 - (4) Electrical service grounds shall not be attached to the water piping. All electrical service and controls of well must be permitted, inspected and approved according to Town and state regulations.

§ 228-6. Water quality and quantity.

- A. Sanitary protection shall be incorporated into the construction of the well and final finishing at grade shall include cement platform large

enough to extend at least two feet in all directions from the well casing itself.

- B. All newly completed wells shall be disinfected in accordance with instructions from United States Environmental Protection Agency Manual of Individual Water Supply Systems.
- C. Before approval, well log and pump test data shall be submitted to the Board of Health in the form attached to these regulations. It shall include a log of the well, showing depth and type of over-burden, depth of casing installed below ground surface, diameter of casing and diameter of the hole in the rock, static water level, and the pumping rate which can be sustained for four hours. The well (after pump testing) shall recover to within 85% of the original static water level within a twenty-four-hour period. The results of all testing shall be submitted to the Board of Health for approval and the well contractor shall be responsible for all data submitted.
- D. A chemical, physical and bacteriological analysis of the water, conducted by a Massachusetts certified laboratory, shall be required. Water which does not meet the accepted standards of agencies of the state or federal government for potable water supplies shall be grounds for the rejection of the well. One sample shall be taken from a tap in the dwelling before occupancy. Acceptance of water quality shall also be based on its conformance to the normal characteristics of ground water in the area.
- E. A bacteriological test to indicate a zero per 100 milliliters coliform density shall be required. A total bacteria count shall also be determined at 35° C.
- F. Chemical and physical analyses shall be required.
 - (1) Toxicity tests may also be required. Analyses shall be performed for at least pH, color, odor, iron, turbidity, manganese, ammonia nitrogen, nitrite nitrogen, alkalinity, nitrate nitrogen, total hardness, sodium, chlorides and copper. Concentrations shall not exceed the following:
 - (a) Color, 15 units.
 - (b) Turbidity, five sensation units.
 - (c) Manganese, 0.05 milligram per liter.
 - (d) Nitrate nitrogen, 10 milligrams per liter.
 - (e) Chloride, 250 milligrams per liter.
 - (f) Iron, 30 milligrams per liter.
 - (g) Copper, 1.0 milligrams per liter.

- (2) Sodium content shall be reported to the homeowner if greater than 20 milligrams per liter. Other parameters will be evaluated on a case-by-case basis by the Board of Health to establish the water's suitability as a domestic water supply.
- G. Where applicable, water quality of semipublic water supplies shall comply with effective regulations of the United States Environmental Protection Agency and the Commonwealth of Massachusetts.
- H. Water conditioning. Permanent disinfection of a polluted supply is prohibited. If the natural water quality does not meet the physical and chemical criteria as listed in Subsection F, water conditioning shall be required. Water softener or other treatment backwash shall not be discharged into the septic system. Treatment units shall be installed with the capability of bypassing such units if necessary or desired.

§ 228-7. Prohibitions.

- A. Surface water supplies for private or semipublic water supplies shall be prohibited.
- B. Cisterns shall be prohibited.
- C. Cross connections shall be prohibited.
- D. Other cross connections for whatever purpose shall not be allowed without a written permit from Massachusetts Department of Public Health.
- E. Wells used for drinking water and domestic water supply shall not be used to provide water for ground water heat pump systems or for water cooling or air conditioning systems. Any wells used for such heating or cooling systems shall be approved by the Board of Health only after the applicant has submitted sufficient evidence to the satisfaction of the Board of Health that such use will not disrupt any other water supply and that the yield of such well is sufficient to provide a sufficient quantity of water to satisfy the manufacturer's recommendations for proper equipment operation.

§ 228-8. Variances.

- A. The Board of Health may vary the application of any provision of these regulations with respect to any particular case, when in its opinion, the enforcement thereof would do manifest injustice, provided that the decision of the Board of Health shall not conflict with the spirit of these minimum standards. Any variance granted by the Board of Health shall be in writing.
- B. Any variance or other modification authorized to be made by these regulations may be subject to such qualification, revocation, suspension or expiration as the Board of Health expresses its grant. A variance or modification authorized to be made by these regulations may otherwise

be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard.

§ 228-9. Enforcement.

- A. The provisions of Article 1 of the State Environmental Code shall govern the enforcement of these regulations.
- B. Orders; service and content.
 - (1) If an examination as provided for in § 228-5C and/or D reveals failure to comply with the provisions of these regulations, the Board of Health may order the person or company responsible to comply with the violated provision.
 - (2) The inspection and these regulations cannot be construed as a guarantee by the Town of Southborough, or its agents, that the water system will function satisfactorily.
 - (3) The Board of Health may require a restriction to be recorded in the registry of deeds in cases which, in the opinion of the Board of Health, the water analyses show marginal compliance with the criteria of these regulations.

§ 228-10. Adoption; when effective.

These rules and regulations were adopted by vote of the Board of Health, Town of Southborough, Massachusetts, and are to be in full force and effect on and after June 28, 1982, and shall, before said date, be published in this Town and a copy thereof shall be deposited in the office of the Town Clerk.

Chapter 234

FEES

ARTICLE I

Police User Detail Fees
[Adopted 4-10-2007 ATM by Art. 36]**§ 234-1. Issuance of bills; due date; interest on unpaid portions.**

Bills for police detail user fees, as determined by the Police Chief or the Chief's duly authorized designee, shall be issued immediately after the detail service is rendered. The due date for payment of any such fee shall be the date of such bill. If the bill, or any portion thereof, remains unpaid after 30 days interest, from the due date, at the rate of 14% per annum, computed from the first day after the thirty-day billing period, shall be paid on so much of the balance of such fee that remains unpaid.

§ 234-2. Provision of copies required.

A copy of this bylaw provision will be given to each individual or entity to whom the police detail service is furnished.

§ 234-3. Statutory authority.

This provision is enacted pursuant to the authority contained in MGL c. 40, § 21E.

ARTICLE II

Construction Permits; Planning Board Plans

[Fees for plumbing and gas permits, electrical permits, building permits and Planning Board plans are promulgated from time to time. The most recent fee amounts are on file in the Town offices.]

Chapter 244
SUBDIVISION OF LAND

GENERAL REFERENCES

Earth removal — See Ch. 85.

Zoning — See Ch. 174.

Numbering of property — See Ch. 124.

Sewage disposal — See Ch. 223.

Wetlands protection — See Ch. 170.

ARTICLE I
Authority

§ 244-1. Authority; when effective.

Under the authority vested in the Planning Board of the Town of Southborough by MGL c. 41, § 81Q and other sections, said Board has on August 18, 1986, adopted these amended Rules and Regulations Governing the Subdivision of Land in the Town of Southborough, Massachusetts, originally adopted in January, 1960. These amended rules and regulations shall take effect upon recording in the registry of deeds and filing with the Recorder of the Land Court.

ARTICLE II
General Provisions

§ 244-2. Definitions.

Words and terms used herein shall have the meanings assigned to them in the Subdivision Control Law, MGL c. 41 and in the Southborough Zoning Bylaw.⁵² In addition, unless the context unequivocally indicates otherwise, the meaning of the following words and terms shall be as defined herein:

APPLICANT — A person (as hereinafter defined) who applies for the approval of a plan of a subdivision or a person who applies under § 244-3. "Applicant" shall include an owner or his agent or representative or his assigns.

BOARD — The Planning Board of the Town of Southborough.

DEVELOPER — A person (as hereinafter defined) to whom approval of a plan of a subdivision has been granted under Article III of these rules and regulations.

GENERAL LAWS (ABBREVIATED MGL) — The General Laws of Massachusetts. In case of a rearrangement of the General Laws, any citation of particular sections of the General Laws shall be applicable to the corresponding sections in the new codification.

LOT — An area of land in one common ownership, with definite boundaries ascertainable of record and used, or set aside and available for use, as the site of one or more buildings and buildings accessory thereto.

MUNICIPAL SERVICES — Sewers, water drains, water pipes, gas pipes, electrical lines, telephone lines, fire alarm system, guardrails, shade trees, street signs, boundary markers and their respective appurtenances.

OWNER — As applied to real estate, the person holding the ultimate fee simple title to a parcel, tract or lot of land, as shown by the record in the appropriate land registration office, registry of deeds or registry of probate.

PERSON — An individual or two or more individuals or a group of association of individuals, a partnership or a corporation having common or undivided interests in a tract of land.

PRELIMINARY PLAN — A plan of a proposed subdivision or resubdivision of land drawn on tracing paper, or a print thereof, showing the subdivision name, boundaries, North point, date, scale, legend and title "Preliminary Plan"; the names of the record owner and the applicant and the name of the designer, engineer or surveyor; the names of all abutters, as determined from the most recent local tax list; the existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner; the proposed system of drainage, including adjacent existing natural waterways in a general manner; the approximate boundary lines of proposed lots, with approximate areas and dimensions; the names,

52. Editor's Note: See Ch. 174, Zoning.

approximate location and widths of adjacent streets; the topography of the land in a general manner. A "preliminary plan" is not recordable.

PLAN OR DEFINITIVE PLAN — The complete plans of a subdivision, as submitted with all required exhibits and the completed application and fees to the Board for approval and endorsement, to be recorded upon such endorsement in the registry of deeds or filed with the Land Court, as distinguished from a preliminary plan.

ROADWAY — That portion of a street or way which is designed and prepared or used for vehicular travel: may also be referred to as the "traveled way" or "pavement."

STREET OR WAY — A strip of land dedicated to use as a public thoroughfare, including a public way laid out and accepted by a public authority or which the Town Clerk certifies is used and maintained as a public way, or a way laid out on a definitive subdivision plan theretofore approved and endorsed under the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in Southborough and having in the opinion of the Planning Board adequate width, construction and grades for the needs of the existing and future buildings and uses abutting thereon or to be served thereby.

STREET, COLLECTOR — A street which carries or can be expected to carry vehicular traffic originating in another street or streets, or streets expected to carry at least 2,000 vehicles average daily traffic.

STREET, LOCAL RESIDENTIAL — A street expected to serve more than eight but fewer than 50 dwelling units, no nonresidentially zoned land, and to carry no significant through traffic.

STREET, MAJOR COMMERCIAL COLLECTOR OR ARTERIAL — A street expected to have an estimated average daily traffic volume in excess of 5,000 trips.

STREET, MAJOR RESIDENTIAL OR MINOR COMMERCIAL COLLECTOR — A street expected to serve more than 200 dwelling units and/or nonresidentially zoned land and to have an estimated daily traffic volume of fewer than 5,000 trips.

STREET, MINOR RESIDENTIAL — A relatively short street expected to have no through traffic and to serve no more than eight dwelling units and no nonresidentially zoned land.

STREET, MINOR RESIDENTIAL COLLECTOR — A street expected to serve more than 50 but fewer than 200 dwelling units and no nonresidentially zoned land.

SUBDIVISION — The process of dividing or resubdividing a tract of land into two or more lots, or the land being subdivided, provided that a division of land into two or more lots shall not be deemed to constitute a "subdivision" if every lot created or altered thereby has the frontage required by the Southborough Zoning Bylaw on a street or way as defined therein and by these Rules and Regulations. Conveyances or other instruments adding to, taking away from or changing the size or shape

of lots in such a manner as not to leave any lot so affected without the frontage set forth above, or the division of a tract of land on which two or more nonaccessory buildings were lawfully standing when the Subdivision Control Law went into effect in Southborough into separate lots on each of which one of such buildings remains standing, shall not constitute a "subdivision."

SUBMITTED — Plans and applications shall be deemed "submitted" when delivered at a meeting of the Board or when sent by registered mail to the Planning Board, care of the Town Clerk; and if so mailed, the date of mailing shall be the date of submission (MGL c. 41, § 81O).

TOWN — Unless otherwise stated, "Town" shall mean the Town of Southborough, and references to Town officials, boards and the like shall mean those of the Town of Southborough.

§ 244-3. Plan believed not to require approval.

A. Submission of plan.

- (1) Any person who wishes to cause to be recorded in the registry of deeds or to be filed with the Land Court a plan of land and who believes that such a plan does not require approval under the Subdivision Control Law may submit the original drawing and three contact prints and a properly executed Form A (see Appendix A)⁵³ to the Planning Board, accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination, accompanied by a copy of said application and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefor.
- (2) The material, manner of execution, contents and dimensions of said plan shall conform to the requirements of the registry of deeds or the Land Court for plans to be recorded, provided that the plan shall be not smaller than 8 1/2 inches by 11 inches nor larger than 24 inches by 36 inches, and shall contain the following information:
 - (a) Identification of the plan by name of owner of record and location of the land in question.
 - (b) Plans shall be prepared by a professional land surveyor or registered civil engineer.
 - (c) The statement "Approval Under Subdivision Control Law Not Required," and sufficient space for the date and the signatures of all five members of the Board and for an explanatory statement as to why approval is not required.

53. Editor's Note: Appendix A is on file in the Town offices.

- (d) Zoning classification and location of any zoning district boundaries within the locus of the plan, and including a North arrow.
 - (e) The boundaries of all lots newly established, changed by the plan or to be recorded without change, including any remaining land, and the dimensions of the required street frontage for every lot. The frontage street shall be identified by name.
 - (f) Notice of any decisions by the Zoning Board of Appeals, including but not limited to variances and exceptions regarding the land or any buildings thereon.
 - (g) Abutters from latest available Assessors' records, unless the applicant has knowledge of any changes subsequent to the latest available Assessors' records.
 - (h) All existing above- and belowground structures and streams and wetlands.
- B. Endorsement of plan not requiring approval.
- (1) If the Planning Board determines that the plan does not require approval, it shall without a public hearing forthwith endorse on the plan the words "Approval Under the Subdivision Control Law Not Required."
 - (2) The Planning Board may add to such endorsement a statement of the reason approval is not required. Within 14 days of the date of plan submission, the plan shall be returned to the applicant, and the Planning Board shall notify the Town Clerk in writing of its action.
- C. Determination that plan requires approval. If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it shall, within 14 days of the submission of the plan, so notify the Town Clerk and the applicant in writing and return the plan.
- D. Failure of Board to Act. If the Planning Board fails to act upon a plan submitted under this section or fails to notify the Town Clerk and the person submitting the plan of its action within 14 days after its submission, the Board shall be deemed to have determined that approval under the Subdivision Control Law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

§ 244-4. Plan requiring approval.

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvement for sale of lots in a subdivision, or the construction of ways, or preparation

therefor, or the installation of utilities and municipal services therein, unless and until a definitive plan of such subdivision has been submitted and approved by the Planning Board as hereinafter provided.

§ 244-5. Presentation of correct information.

- A. The Board assumes all information provided to be true and correct, unless evidence is offered or the Board has knowledge that this is not the case. A subsequent discovery or determination that the Board had acted on the basis of incorrect information will justify a rescission of plan approval in addition to other remedies and penalties provided by law. The responsibility for the presentation of complete and correct information lies with the applicant.
- B. If the land shown on the plan is abutted by land of another owner, the Board may require a statement from the person who prepared the plan as to the source or sources of the information about the location of boundaries. A separate form for such statement will be furnished by the Board, Form D, Designer's Certificate (Appendix D).⁵⁴

§ 244-6. Limit on dwellings on a lot.

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lots in a subdivision, or elsewhere in the Town, without the consent of the Planning Board. Such consent may be conditional upon the provision of adequate ways furnishing access to each such building and adequate improvements in the same manner as otherwise required for lots within a subdivision.

§ 244-7. Filing and processing fees.

To reimburse the Town for the cost of plan processing and review, legal advertising, inspection and other costs, filing and processing fees as specified in Appendix M⁵⁵ shall be tendered together with the application (Forms A, B or C)⁵⁶ and constitute a part thereof. If a definitive plan follows closely the layout shown on a preliminary plan and is submitted within seven months of the preliminary plan submittal, the required definitive plan fee shall be reduced by the amount of the preliminary plan fee.

§ 244-8. Access agency.

- A. General. Plans shall be endorsed as not requiring approval under the Subdivision Control Law and subdivision plans shall be approved only if each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, MGL c. 41, §§ 81K through 81GG.

54. Editor's Note: Appendix D is on file in the Town offices.

55. Editor's Note: Appendix M is on file in the Town offices.

56. Editor's Note: Forms A, B and C are on file in the Town offices.

- B. Standards of adequacy. Streets within a subdivision shall be considered to provide adequate access if and only if complying with the standards established in these regulations. Ways providing access to streets within a subdivision shall normally be considered to provide adequate access only if there is assurance that prior to construction on any lots, access to the subdivision will be in compliance with the right-of-way width, pavement width, maximum grade and sight distance requirements of these regulations as applicable to ways within a subdivision.
- C. Obligations. The Board may require, as a condition of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate a strip of land for the purpose of widening access ways to a width as required above, and that he either make physical improvements within such way or compensate the Town for the cost of such improvements in order to meet the standards specified above.
- D. Waivers. The Board may waive strict compliance with these access requirements only upon its determination, following consultation with the Selectmen, Highway Superintendent, Police Chief and Fire Chief, that the way in fact will be sufficient to serve the needs for access to serve potential uses of land abutting on or served by the way in question, and that alteration to existing ways in order to meet these standards would not be in the public interest because of environmental damage or unwarranted expense.

ARTICLE III
Plan Submission and Approval Procedure

§ 244-9. Preliminary plan.

A. General.

- (1) A preliminary plan of a subdivision may be submitted by the applicant and 10 prints of it shall be filed with the Planning Board and one print shall be filed with the Board of Health. The submission of such a preliminary plan will enable the subdivider, the Planning Board, the Board of Health, the Water Department, the Highway Department, the Police Department, the Fire Department, the Planning Board's engineer and other Town agencies and owners of property abutting the subdivision to discuss and clarify the details of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in each case. A properly executed application Form B (see Appendix B)⁵⁷ shall be filed with the preliminary plans submitted to the Planning Board.
- (2) The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission to the Planning Board for such approval of a preliminary plan and accompanied by a copy of a properly executed application Form B.

B. Contents.

- (1) The preliminary plan shall be drawn on tracing paper or suitable alternative at a scale of 40 feet to the inch unless the Board authorizes or specifies a different scale. The plan shall form a clear basis for discussion of the details of the subdivision and for preparation of the definitive plan. The plan shall contain the following:
 - (a) The subdivision name, if any, boundaries. North point, date, scale, legend and title "Preliminary Plan" (on each numbered sheet if the plan comprises several sheets).
 - (b) The names of the record owner of the land and the subdivider and the name of the designer, engineer or surveyor who made the plan, which shall appear in the lower right-hand corner.
 - (c) The names of all abutters, as determined from the most recent assessors records, unless the applicant shall have more recent knowledge of such abutters.
 - (d) The existing and proposed lines of streets, ways, easements and any public or common areas within the subdivision, in a general manner.

57. Editor's Note: Appendix B is on file in the Town offices.

- (e) The proposed system of drainage, including adjacent existing natural waterways, in a general manner. (NOTE: Runoff calculations, when requested by the Board, should be submitted with preliminary plan.)
 - (f) The approximate boundary lines of proposed lots, with approximate areas and dimensions.
 - (g) The names, approximate location and widths of adjacent streets.
 - (h) The existing and proposed topography of the land with a two-foot contour interval based on the United States Coast and Geodetic Survey Datum.
- (2) In addition to the above required items, the Board requests that the following information essential to the evaluation of the proposed layout be shown on all preliminary plans:
- (a) The proposed names of the proposed streets and a number on each lot on each proposed street suitable for an address number consecutively arranged, odd numbers on the right-hand side, even numbers on the left-hand side, leading away from the existing way, or east to west, north to south if between two ways. The Planning Board reserves the right to name or rename proposed public and private streets.
 - (b) Major existing features of the land, such as walls, fences, large trees, wooded areas, ledge outcrops, major ditches, wetlands and water bodies.
 - (c) All existing structures above and below ground (where known), such as buildings, water mains and other pipelines, polelines, wells and tanks. Water mains within 1,000 feet shall be indicated.
 - (d) The profiles or existing grades and approximate proposed finished grades of the roadway, and drain and sewer utilities.
 - (e) A locus plan in the scale of one inch equals 800 feet shall be shown on the first page.
- C. Board action on preliminary plan. The Planning Board may disapprove the preliminary plan and state the specific reasons therefor, or may approve the preliminary plan, with or without modifications, and may suggest changes to be incorporated on the definitive plan, after a review of the plan and consultation with the Board of Health, Engineer to the Planning Board, and the Water, Highway, Fire and Police Departments of the Town. The approval of the preliminary plan does not constitute approval of the subdivision and does not entitle the plan to be recorded, but facilitates the preparation of a definitive plan meeting the Board's requirements. The Board shall, within 60 days of

the submission, notify the applicant by certified mail and the Town Clerk in writing of its action relative to the preliminary plan. One copy of the preliminary plan shall be returned to the applicant with a notation of the Board's action.

§ 244-10. Definitive plan.

A. General.

(1) Any person who submits a definitive plan of a subdivision to the Planning Board for approval shall file with the Board the following:

(a) A sepia and 13 prints of each drawing of the definitive plan, dark line on white background. The original drawing shall be furnished upon request by the Planning Board and will be returned when the Planning Board is ready to take action.

(b) A properly executed application Form C (see Appendix C),⁵⁸ including the time within which the applicant agrees to complete the ways and install the public utilities in the subdivision. Form D (see Appendix D),⁵⁹ a certified list of abutters (Form E),⁶⁰ and a filing and processing fee. (See § 244-7.) The approval of all plans shall be upon the condition that the ways and municipal services or utilities shown thereon shall be completed within the time so specified, or within such further time as may be allowed by the Board, subject to adjustments in the penal sum or amount of the security held and in the construction requirements.

(2) The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission to the Planning Board of the definitive subdivision plan, accompanied by a copy of the completed application for approval (Form C).⁶¹ It is strongly recommended that definitive plans be submitted by appointment, at a regularly scheduled Planning Board meeting.

B. Contents. The definitive plan shall be prepared by a professional engineer and land surveyor registered in Massachusetts and shall be clearly and legibly produced on Mylar, polyester film or other media acceptable to the Board. The plan shall be at a scale of one inch equals 40 feet or such other scale as the Planning Board may accept to show details clearly and adequately, and shall include plans and profiles of each individual street at a scale of one inch equals 40 feet horizontal and one inch equals four feet vertical. All elevation shall refer to the United States Coast and Geodetic Survey Datum. Sheet sizes shall be 24 inches by 36 inches, including a one-inch border. They shall be

58.Editor's Note: Appendix C is on file in the Town offices.

59.Editor's Note: Appendix D is on file in the Town offices.

60.Editor's Note: Form E is on file in the Town offices.

61.Editor's Note: Form C is on file in the Town offices.

accompanied by an index sheet at a scale of one inch equals 100 feet showing the entire subdivision and adjacent streets and dimensions of the lots and streets and lot numbers. The definitive plan shall contain the following information:

- (1) A title, appearing in the lower right-hand corner of the plan, showing the name of the subdivision, if any; the date; scale; the names and address of the applicant; and the names, signatures and professional stamps of the designer, engineer and surveyor who made the plan.
- (2) North point, boundaries of the subdivision and benchmarks at intervals of not more than 1,000 feet.
- (3) A key or locus of the subdivision showing the adjacent existing streets in the scale of one inch equals 800 feet.
- (4) Location and ownership of abutting property as it appears on Form E, Certified List of Abutters,⁶² unless the applicant shall have more recent knowledge of such abutters.
- (5) Major existing features of the land, such as existing waterways, swamps and water bodies, wetlands, designated or otherwise, natural drainage courses, walls, fences, buildings, large trees, wooded areas, outcroppings of rock, ditches and all existing structures above- or below ground.
- (6) Lines of existing and proposed ways or streets, easements, public or common areas, and lots, differentiating between the existing and the proposed lines and lots, showing sequential and street numbers for every lot within the subdivision, and ownership of every lot shown that is not a part of the subdivision, including all land owned by the applicant and contiguous to the subdivision. The names of proposed streets and street numbers of the proposed lots shall be shown in pencil and inked in upon approval by the Board. The Board reserves the right to name or rename proposed public and private streets.
- (7) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground. This shall include the lengths and bearings of boundary lines of the subdivision perimeter and of all subdivision lot lines, including lot frontage on the streets, of the boundary lines of all streets and easements, and the lengths, radii, tangents and central angles of all curves in lot lines and street lines. Control points of street lines shall be coordinated with the Massachusetts Coordinate System. All angle points or intersections of tangents along the street lines shall be shown. Areas of lots with lot numbers and the street frontage of adjoining lands of the applicant not included in the subdivision will be shown.

62. Editor's Note: Form E is on file in the Town offices.

- (8) Location of all permanent monuments, identified as to whether existing or proposed.
- (9) Location, names and widths of streets or private ways bounding, approaching or within 250 feet of the subdivision, showing both roadway and right-of-way widths.
- (10) Indication of all easements, covenants or restrictions applying to the land and their purposes, whether or not within the subdivision, including any decision on appeal or any variances or special permit granted by the Zoning Board of Appeals applicable to the land in the subdivision or any buildings thereon.
- (11) If any land within or contiguous to the subdivision or any part or boundary thereof has been examined, approved and confirmed by the Massachusetts Land Court, such information shall be noted on the plan with case numbers and other pertinent references.
- (12) Suitable space to record the action of the Planning Board and the signatures of the five members of the Planning Board, including space for reference to any conditions of approval.
- (13) Existing and proposed profiles of proposed streets at a vertical scale of one inch equals four feet and horizontal scale of one inch equals 40 feet or other scales acceptable to the Board. The existing profile shall be shown in fine black line, solid at the center line, dotted for the left and dashed for the right side line; the proposed center line shall be shown in heavy red or black line. Existing and proposed center-line elevations shall be shown at 25 feet stations on vertical curves and at 50 feet stations otherwise, also at intersections, and proposed street center-line grade shall be indicated in percent, except on vertical curves. All elevations shall be on national vertical datum, and benchmark elevations shall be identified at 1,000 feet maximum interval.
- (14) Existing and proposed topography at two-foot contour intervals, the boundaries of floodplains based on Flood Insurance Rate Maps and the highest high-water mark of the last five years. There shall also be indicated by different symbols the contour line four feet above said high-water mark.
- (15) Water mains and drains.
 - (a) Size and location of existing and proposed water supply mains and their appurtenances, hydrants, sewer pipes and their appurtenances and/or sewage disposal systems, storm drains and their appurtenances and easements pertinent thereto, data on borings and percolation tests made and method of carrying water to the nearest watercourse or easements for drainage as needed, whether or not within the subdivision. The location, depth and capacity of known existing underground tanks will be shown.

- (b) If surface water drains will discharge onto adjacent existing streets or onto adjacent properties now owned by the applicant, the plan shall clearly indicate what course the discharge will take, and the applicant shall present to the Board evidence from the Highway Superintendent, the Engineer to the Board or the owner of adjacent property that such discharge is satisfactory and permitted by public or private ownership of adjacent street or property.
 - (16) Calculations prepared by a registered engineer to substantiate proposed drain pipe sizes. See section on design standards for the criteria and assumptions to be used in drainage calculations.
 - (17) A closed traverse for each street in the subdivision, including street lines at junctions with other existing or proposed streets.
 - (18) Location and species of street trees identified as existing, or to be planted.
 - (19) Cross sections typical of each street, roadway and sidewalk to be constructed.
 - (20) On the plan of each proposed street the location and dimensions of all construction features and municipal services or utilities, such as sidewalks, grass plots, pavement, hydrants and valves, guardrails, culverts and streetlights, where known.

Items in Subsection B(13) through (20) may be submitted on the same sheet as the definitive plan of lots or on separate sheets.
 - (21) A tabulation of the total areas within the subdivision of all lots, of land within the streets, and of land to be set aside for parks, open space and other public uses, and of the total area of the subdivision with an explanation of any difference between it and the aggregate of the areas of lots, streets and common or public lands.
 - (22) Any nonstandard or special details of construction, such as the design of any retaining or wing walls, bridges or large culverts, special manholes, turnarounds, medians or safety islands and the like.
- C. Review by Board of Health as to suitability of the land. At the time of filing of the definitive plan, the applicant shall also file with the Board of Health two contact prints of the definitive plan, dark line on white background, together with such information in the nature of percolation tests and deep test holes as the Board of Health may require. The Board of Health shall within 45 days after filing of the plan report to the Planning Board in writing approval or disapproval of said plan. If the Board of Health disapproves said plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefor in

such report, and, where possible, shall make recommendations for the adjustment thereof. Every lot shall be provided with a sewerage system. The approval of the definitive plan by the Board of Health shall not be construed to be the approval of any individual sewage disposal or septic system. The Board of Health shall transmit a copy of its report and findings to the applicant.

D. Environmental assessment. A comparative environmental analysis shall be submitted for any subdivision creating frontage potentially allowing 10 or more dwelling units or serving 10 or more acres of nonresidentially zoned land, and in other cases where the Board determines it appropriate in light of special circumstances. The scope of such analysis, including development alternatives to be compared and consequences to be studied, shall be approved by the Planning Board prior to the preparation of the analysis and may be required to be necessary for plan evaluation. The analysis shall be prepared by an interdisciplinary team to include a civil engineer and an architect or landscape architect, unless otherwise agreed to by the Planning Board. The analysis shall indicate differences among the alternatives regarding:

- (1) Impact upon ground and surface water quality and level, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer and other activities within the development.
- (2) Material effects upon important wildlife habitats, outstanding botanical features and scenic or historic environs.
- (3) Capability of soils, vegetative cover and proposed erosion control efforts to support proposed development without danger of erosion, silting, or other instability.
- (4) Relationship to the requirements of MGL c. 131, §§ 40 and 40A (the Wetlands Protection Act).
- (5) Impact upon the existing water supply system and well capacity of the Town.
- (6) Road layout, egresses from site, sight distances, traffic (vehicles per day and peak hours) expected to be generated by or attached to site, impacts on existing ways, possible mitigating actions.
- (7) Building siting and lot shape for solar energy potential.

E. Additional information may be required.

- (1) Upon receipt of the application and the definitive plan, the Clerk of the Planning Board will transmit copies of the plan or such parts thereof and of other information as may be appropriate to the following Town officials and departments for review and

recommendations relative to those aspects of the definitive plan relevant to each:

- (a) Town Counsel for the review and approval or for the drafting of agreements, conditions and grants of easements and areas for public use.
 - (b) Highway, Water, Fire and Police Departments, Tree Warden, Conservation Commission, Building Inspector and Boards of Selectmen and of Assessors.
- (2) The remaining copies of the definitive plan will be retained for the Board's files and for the consultant or engineer to the Board.
- F. Suitability of the land. The Board may require additional information, soil surveys and percolation test to establish the suitability of land for the proposed development.
- G. Public hearing requirements. Before taking any action to disapprove or approve the definitive plan, with or without modifications, the Board shall hold a public hearing at which parties in interest shall have an opportunity to be heard, in person or through an agent or attorney. Notice of the time and place of such hearing and of the subject matter, sufficient for the identification of the land to be subdivided, shall be published in a newspaper of general circulation in the Town, such as the Middlesex News or the Marlborough Enterprise, once in each of two successive weeks, the first publication to be not less than 14 days before the date of the hearing.

§ 244-11. Action on definitive plan.

- A. Required conformance for approval. The Planning Board shall review the definitive plan and consider the recommendations of its consultants, and of the Town officials and boards. The definitive plan may be approved if it conforms, or is modified to conform, to the requirements of Chapter 41 of General Laws, of the Zoning Bylaw of the Town of Southborough,⁶³ of these rules and regulations of the Planning Board, and to the applicable regulations and requirements of the Highway, Water, Fire and Police Departments and of the Boards of Selectmen and of Health, especially as regards the specifications for septic systems. The definitive plan will be disapproved if it does not conform to the standards and requirements of these rules and regulations or to the applicable requirements of the Zoning Bylaw, or is inconsistent with the rules and requirements of the Town and its officials and boards acting within their jurisdictional area. The definitive plan shall conform, or shall be modified to conform to the Master Plan for the Town or for any part thereof adopted by the Planning Board, and the Board may disapprove any layout inconsistent with such plans adopted by it.

63.Editor's Note: See Ch. 174, Zoning.

B. Certificate of action.

- (1) Within 60 days of the submission by the applicant of the definitive plan, unless said time has been extended by vote of the Planning Board at the written request of the applicant and the Town Clerk has been notified in writing of such extension to a date certain, the Board shall by vote approve with or without modifications or disapprove said plan and notify the applicant by registered mail, return receipt requested, and the Town Clerk in writing of its action. Such notification shall be in the form of a certificate of action, suitable for recording, bearing the signatures of the majority of Planning Board members or of a person duly authorized by a recorded vote of the Planning Board to certify Planning Board actions, and shall include all conditions of approval and, in the event of disapproval or approval with modifications, the specific reasons therefor.
 - (a) The applicant shall give the Town security for the construction of ways and installation of municipal services or improvements in accordance with the approved plans and all applicable Town specifications and requirements and within the time specified, as provided in Subsection C hereof; and
 - (b) The Town Clerk shall certify by inscription on the plan that no appeal of the Board's action was received at the Town Clerk's office within 20 days following the recording at said office of the Board's certificate of action with respect to such definitive plan.
- (2) Within 10 days of the release for recording of the approved definitive plan and covenant, if any, at the registry of deeds, the applicant shall notify the Board in writing, presenting evidence of the recording of the plan and the covenant; and six copies of the approved and recorded definitive plan and a certified title report, duly searched and executed by an attorney or title company, stating that the title to the premises shown on said plan and appurtenances thereto is in the applicant and free of all encumbrances. Upon receipt of such notification the Planning Board shall file one copy of the approved and recorded definitive plan each with the Building Inspector, the Assessors, the Board of Health, the Highway Superintendent and the Water Commissioners.
- (3) Approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets with a subdivision as public ways.

C. Performance guaranty. Before the Board endorses its approval and signs the definitive plan and releases it to the applicant for recording, the applicant, that is the owners of all land shown on the definitive plan or other entity having the authority to assume legal obligations with respect to such land and the improvements thereon, must deliver to

the Board adequate security for the required construction of ways and installation of utilities and other required improvements to serve all lots in the subdivision by one or more of the methods described below. Such security shall be approved by the Town Counsel as to form and, where appropriate, shall be cosigned by the mortgage holder, and shall specify the time within which the required construction and installation shall be completed.

- (1) The security may be in the form of a proper surety company bond the penal sum of which shall in the opinion of the Planning Board be sufficient to pay for all required work, including an allowance for inflation by the end of the time specified for the completion of all required construction and installation.
- (2) The security may be in the form of a certified check or a savings bankbook or certificate, together with a signed withdrawal slip and assignment assented to by the bank or other negotiable securities acceptable to the Board as regards form, amount and the ability of the Town to realize upon them in the event of a default.
- (3) The security may be in the form of an agreement executed by the applicant and the holder of the construction mortgage, in which the mortgage holder of lender agrees to withhold from the money otherwise due the applicant an amount sufficient in the Board's opinion to complete all remaining required work, including an allowance for inflation as under Subsection C(1) above, and to make such money available to the Town for the completion of such work in the event of the applicant's failure to complete it within the time specified.
- (4) The security may be in the form of a covenant executed and delivered by the applicant (see Appendix Form I),⁶⁴ cosigned by the mortgagee, duly recorded and running with the land, wherein the applicant agrees to construct ways and install all required utilities and improvements to serve all the lots covered by the covenant before any lot may be built upon or conveyed, except by a mortgage deed, provided that a mortgagee acquiring title to a lot by foreclosure or otherwise and any succeeding owner thereof may sell such lot subject to the requirement of the covenant that no lot shall be built upon until it is released by the Planning Board upon construction of ways, utilities and other required improvements to serve such a lot; and further provided that the entire parcel of land covered by the covenant or all lots not previously released may be conveyed by a single deed and subject to the covenant. The release of lots for building and sale from the restrictions of the covenant shall be evidenced by a certificate of performance and release of lots (Appendix Form K)⁶⁵ which shall be recorded.

64.Editor's Note: Appendix Form I is on file in the Town offices.

65.Editor's Note: Appendix Form K is on file in the Town offices.

- (5) The applicant may select and may from time to time vary the form of security, provided that when the applicant wishes to replace performance security in the form of a bond or other surety by a covenant, a new plan of the entire subdivision or the part thereof to be subject to the covenant shall be submitted to the Planning Board for endorsement with an inscription referring to the terms and restrictions of the new covenant and shall be recorded with the covenant.
 - (6) It is a policy of the Planning Board that, except where performance security is in the form of a covenant, at least 25% of such security shall be in the form of a savings bankbook, certificate of deposit or certified check allowing immediate withdrawal of money in the event of a failure to perform.
 - (7) A surety agreement describing the limits and the items of work to be performed and enumerating the lots released shall be executed by the applicant and the Board if the security is as described under Subsections C(1),(2) and (3) above (see Appendix Form J).⁶⁶
- D. Reduction of security. The penal sum of any such bond, or the amount of any deposit held under Subsection C(2) or (3) above and any interest accrued thereon, shall, from time to time, be reduced by vote of the Planning Board and the obligations of the parties thereto released by said Board in whole or in part, retaining at all times an amount sufficient in the opinion of the Planning Board to cover the cost of performing all remaining required work secured thereby.
- E. Release of performance guaranty.
- (1) Upon the performance of all required construction of ways, installation of utilities and other improvements in accordance with Town specifications and with these rules and regulations, the applicant shall send a written statement to that effect to the Planning Board and the Town Clerk by certified mail and request the release of all security held or of all lots secured by a covenant.
 - (2) If the Board determines that such construction and installation have been satisfactorily completed in accordance with the conditions of approval and with these rules and regulations, and have not been allowed to deteriorate while covered by such security, it shall by vote release all such security and any lots secured by a covenant, and return any bond, bankbook or deposit to the person who furnished the same, or execute Form K with respect to the lots restricted by the covenant.
 - (3) If the Board determines that any required work has not been satisfactorily performed in accordance with the approved plans and with these rules and regulations and is not in a condition acceptable to the Town, the Board shall so notify the applicant by

66. Editor's Note: Appendix Form J is on file in the Town offices.

certified mail and the Town Clerk and specify the details wherein said construction or installation fail to meet the requirements of these rules and regulations and the conditions of definitive plan approval. The failure to so notify the applicant and the Town Clerk within 45 days of the receipt by the Town Clerk of the applicant's request shall be deemed to be a release of the performance security or the covenant, and the Town Clerk shall issue a certificate to that effect, which may be recorded, and the security held by the Town shall be returned to the applicant.

- (4) Prior to or at the time of the request for the release of performance guaranties, the applicant shall submit to the Board three copies of as-built plans, including profiles and construction details, bearing a certification by a registered land surveyor or registered civil engineer that the location, material, elevation and method of construction or installation of all streets, utilities, stone bounds or other monuments, street signs and any other required improvements conform exactly to the approved definitive plans, as they may have been modified by the Planning Board, and to these rules and regulations or indicating clearly any departures therefrom and the actual as-built locations, materials, grades and other particulars thereof. Work shall not be considered completed and performance guaranties shall not be released until such certified as-built plans have been received and the Board determines that any departures from the approved plans and these rules and regulations are minor and nonsubstantive or necessary and require no alterations.
- (5) Upon the approval of the definitive plan but in any event prior to the release of security or covenant, the applicant or the applicant's successor-in-title to the land shown on the definitive plan shall convey to the Town without cost the free and unencumbered right to enter and use all streets and easements shown thereon, including the right to install, repair, replace, operate and forever maintain the streets and the surface and subsurface utilities therein. Notwithstanding the above, it shall be the responsibility of the applicant and the applicant's successors-in-title to maintain all streets and utilities in a subdivision in a good operating condition until such time as they are formally accepted by the Town, and not to allow any abuse or damage which could interfere with the use of streets and utilities.

ARTICLE IV
Design Standards

§ 244-12. General requirements.

A. Design criteria.

- (1) All subdivisions shall adhere to the principles of correct land use, sound planning, and good engineering, and shall meet the requirements of public safety, including reasonable precautions against possible natural disasters, traffic safety and convenience, adequate water supply, stormwater drainage and protection against flooding, and sanitary sewage disposal and be designed with due regard to the rights, health and welfare of the residents of the Town, including the future residents of such subdivisions.
- (2) All subdivisions shall be designed and improvements made by the developer shall accomplish the following:
 - (a) Reduce, to the extent reasonably possible:
 - [1] Volume of cut and fill.
 - [2] Area over which existing vegetation will be disturbed; especially if within 200 feet of a river, pond or stream or having a slope of more than 15%.
 - [3] Number of mature trees removed.
 - [4] Extent of waterways altered or relocated.
 - [5] Visual prominence of man-made elements not necessary for safety or orientation.
 - [6] Erosion and siltation.
 - [7] Flood damage.
 - [8] Number of driveways exiting onto existing streets.
 - [9] Disturbance of important wildlife habitats, outstanding botanical features, and scenic or historic environs.
 - (b) Increase, to the extent reasonably possible:
 - [1] Vehicular use of collector streets to avoid traffic on streets providing house frontages.
 - [2] Visual prominence of natural features of the landscape.
 - [3] Legal and physical protection of views from public ways.
 - [4] Street layout facilitating south orientation of houses.
 - [5] Use of curvilinear street patterns.

- B. Adherence to plans. All subdivisions shall be laid out so as to conform to the Master or General Plan for the Town or any part thereof adopted by the Planning Board, and to the requirements of the Planning Board and the rules and specifications of other boards and officials of the Town acting within their jurisdiction. Where such action is deemed by the Board to be in the public interest and in consideration of alternative improvements, the Planning Board may waive the specific requirements of these rules and regulations and of plans adopted by the Board.
- C. Subdivision costs. All expenses for advertising, engineering and design, plans, hearings, reviews, acquisition of necessary rights, construction and other improvements within the subdivision, recording and filing of plans and other documents, and all other expenses in connection with or for a subdivision shall be borne by the applicant.
- D. Preservation of Town character. It is a policy of the Town and a major objective of the Board to preserve to the maximum extent feasible the open, rural character of the Town and its significant natural features and to minimize removal of healthy trees and stone walls, excessive grading and destruction of natural vegetated surfaces.

§ 244-13. Streets.

- A. Layout, location and alignment.
 - (1) All proposed and existing streets in a subdivision shall be designed and laid out so that they will provide, in the opinion of the Planning Board, for public safety and a convenient and attractive layout.
 - (2) All proposed and existing streets in a subdivision shall be classified by the Planning Board according to their function and the traffic they will be expected to carry (see § 244-2, Definitions) and the design, alignment and construction of all subdivision streets shall be in accordance with these rules and regulations.
 - (3) All streets shall be designed and constructed to the end of the layout or to the boundaries of the subdivision, so as to provide a continuous, connecting network with other existing and proposed streets. Where an existing street ends within 250 feet of the subdivision border, and a connection is necessary for the safety and convenience of traffic, the Board may require that a subdivision street be extended to connect to such existing street. Reserve strips preventing access to a street from the adjacent property shall not be permitted, except where, in the opinion of the Planning Board, such reserve strip is in the public interest.
 - (4) Dead-end streets shall not exceed the lesser of 1,000 feet from the side line of the intersecting street to the street side line at the end of the turnaround, measured along the center line of the street extended, or the minimum length necessary to accommodate 12 lots with the minimum permitted frontage along both sides of such

street. This limitation shall apply to any subdivision with a single street exit, whether terminating in a turnaround or involving loops or branching side streets, except that only 1/2 the length of any loop shall be included in calculating the length of a dead-end street. Dead-end and horseshoe-shaped streets are appropriate where a through street connection is not required.

- (5) Street jogs with center-line offsets of less than 150 feet between two streets joining the third street from the opposite sides shall be avoided.
- (6) Streets shall be laid out so as to intersect as nearly as possible at right angles, but in no instance at an angle of less than 60° for a distance of at least 100 feet from the intersection of center lines.
- (7) Where the street grade exceeds 4% (four feet vertically per 100 feet horizontally), a leveling area of not more than two-percent grade shall be provided for a distance of 75 feet from the side line of the intersecting street right-of-way.
- (8) Changes in grade shall be by means of vertical curves such as to allow an adequate sight distance.
- (9) Residential streets defined as minor, local and minor collector shall conform to the topography of the land and avoid straight segments of more than 400 feet which encourage high speeds and detract from the appearance of residential areas.
- (10) With the exception of locations expected to have traffic lights installed, T-intersections shall be used in preference to four-way intersections. Intersections involving more than four approach ways will only be approved when no reasonable alternative is possible.
- (11) Dead-end streets shall be designed with a circular turnaround with a pavement radius of at least 50 feet. Other turnaround designs capable of accommodating a vehicle with a fifty-foot turning radius may be allowed by the Board.
- (12) Dead-end streets longer than otherwise permitted may be approved where access and egress are provided by means of two parallel twenty-foot-wide pavements separated by a median at least 10 feet wide.⁶⁷

B. Curb cuts.

- (1) Curb cuts for driveways shall be avoided and kept to a minimum along arterial and major collector streets. Curb cuts and utility connections in state highways require approval of the

67. Editor's Note: Original Subsection 4.2.2. Design Standards for Various Street Classifications, which originally followed this subsection, is included as an attachment to this chapter.

Massachusetts Department of Public Works;⁶⁸ opening a Town way requires the approval of the Superintendent of Highways and may require the posting of a bond to guarantee restoration.

- (2) Curb cuts for driveways shall be at least 10 feet wide and shall have three feet radius flare at the pavement. Driveway roundings shall be provided with the same type of curbing as the pavement at that location.
- (3) No driveway openings shall be located within 65 feet of the intersection of the center lines of intersecting streets.
- (4) Between the side line of the street right-of-way and the edge of the pavement or gutter line, driveway grades shall be not less than 1%, nor more than 8%.

§ 244-14. Open space.

Before approval of a plan, the Planning Board may require either of the following:

- A. The plan to show a park or parks, suitably located in the Board's opinion for playground or recreation purposes or to provide light and air. The Planning Board may require by appropriate endorsement on the plan that no building be erected upon such park or parks without its approval for a period of three years. Each area reserved for such purposes shall be of suitable size, dimension, topography and natural character. The Board may require that the areas so reserved shall be located so as to be used in conjunction with similar areas of adjoining or potential subdivisions and to serve adequately all parts of the subdivision, as approved by the Planning Board. Unless otherwise specified by the Board, the total area to be reserved for park and playground purposes shall be not less than 10% of the gross area of the subdivision. The land so reserved shall not be a wetland and shall not be stripped or altered, except as may be approved by the Board to ensure suitability for the purposes intended.
- B. Certain portions of each lot, collectively equal to no less than 10% of the gross area of the subdivision, shall be set aside under covenant, not to be developed and to remain as open space in its natural state in perpetuity.

§ 244-15. Easements.

- A. Where utilities cross lots or are centered on rear or side lot lines, easements shall be provided of a width of at least 30 feet.
- B. Where a subdivision is traversed by a watercourse, drainage-way, channel or stream, the Planning Board may require a stormwater easement or drainage right-of-way of at least 30 feet and proper side

68.Editor's Note: Now the Department of Transportation.

slope to conform substantially to the lines of such watercourse, drainageway, channel or stream and to provide for construction or other necessary purposes.

- C. Easements shall be provided if required by the Planning Board, and shall be at least 30 feet wide.

§ 244-16. Drainage.

- A. Lot drainage. Lots shall be prepared and graded in such a manner in accordance with the approved topographic plans that the development of one lot shall not interfere with the proper drainage of other lots and will not cause ponding or flooding. Earthwork and paving shall be kept to a minimum in order to preserve the natural precipitation retention capacity of the soil and reduce impervious areas. If provision is necessary to carry drainage to or across a lot, an easement of at least 30 feet and proper side slope shall be provided. The applicant shall furnish evidence that adequate provision has been made for the proper drainage of surface and underground waters from such lot or lots.
- B. Drainage system.
 - (1) The definitive plan shall show surface and subsurface storm drains, culverts, swales and related drainage structures sufficient to adequately drain snowmelt, other precipitation and flooding runoff from lots and streets. Drainage capacity shall be designed for a fifty-year flood event, except that culverts for watercourses crossing streets shall be designed for a one-hundred-year flood event, and the Planning Board may require design for one-hundred-year frequency where the high damage potential or other circumstances warrant it. The rational formula or the SCS Modified Soil Complex Method shall be used, and the value of the coefficient of imperviousness shall vary according to terrain, but shall not be less than 0.30. Hydraulic design computations shall be submitted to the Board at its request. No net increase in runoff from the site is allowed.
 - (2) The main street drain and the manholes centered thereon shall be located five feet from the center line of pavement; drain manholes and catch basins shall have inside diameter of four feet, and the catch basins shall have a two-and-one-half-foot deep sump below the outlet pipe invert and shall be centered one foot into the street from the curb or gutter line. The minimum pipe diameter shall be 12 inches and the grade shall be such as to provide a minimum velocity of two feet per second when flowing full and without surcharge. The distance between catch basins shall be no greater than 400 feet in order to provide proper drainage. Where water needs to be channeled or piped to or across land of others in a manner resulting in a change in intensity, subdivision approval will be predicated on the applicant first obtaining the necessary easement rights which later shall be recorded.

§ 244-17. Water supply and fire hydrants.

Adequate water supply shall be assured for each lot in a subdivision. If any boundary of a subdivision is within 1,000 feet of a municipal public water system, then each lot in that subdivision shall be connected to that water system. If said distance is greater than 1,000 feet then a separate on-lot well of adequate yield and quality may be provided. The definitive plan shall indicate the location of any public water system and fire hydrants within 2,000 feet of the subdivision. Extensions of the Town water system shall conform to the requirements of the Water Department. Water mains shall be located five feet in from the side line of the street right-of-way and five feet deep, and shall have a minimum inside diameter of eight inches. Whenever possible the water mains shall form a loop. Fire hydrants shall be located at least 18 inches into the grass plot from the curb or gutter line and shall be spaced no more than 500 feet apart, unless the Fire Chief approves in writing a different spacing. Hydrants shall be of a style approved by the Fire Chief.

§ 244-18. Wiring and fire alarm systems.

Electric, telephone, cable television, fire alarm and other conduits and wiring shall be installed underground in accordance with the requirements of the source company or authority, unless the Board waives this requirement due to soil conditions or other reasons.

ARTICLE V

Required Improvements; Construction Standards**§ 244-19. General requirements.**

- A. No street or way through private property shall be accepted by the Town unless the same be previously constructed and completed in accordance with the standard cross section (See Appendix N)⁶⁹ and the approved street layout plan, profile and these specifications.
- B. Unless otherwise specified, all the work and the materials used in the work to be done shall conform to the requirements of the Commonwealth of Massachusetts. Department of Public Works,⁷⁰ Standard Specifications for Highways and Bridges, hereinafter referred to as the "standard specifications," as amended and the special provisions included below.
- C. References in the following specifications, unless otherwise stated, are to the aforesaid Standard Specifications. In case of conflict between these specifications or special provisions and the aforesaid standard specifications, amendments or addenda, these specifications and special provisions shall take precedence and shall govern.
- D. To facilitate reference, some paragraphs in these specifications show the paragraph numbers of the applicable sections of the standard specifications.
- E. Wherever in the standard specifications or other contractual documents, the following terms or pronouns in place of them, are used, the intent and meaning shall be interpreted by substitution as follows:
COMMONWEALTH — The Town of Southborough.
DEPARTMENT — Highway Superintendent, Town of Southborough.
ENGINEER — The Highway Superintendent of the Town of Southborough, acting directly or through an authorized representative, such representative acting within the scope of the particular duties entrusted to him.
- F. The extent of work required shall be shown upon approved plans, and shall be in compliance with the standard cross section. Stakes shall be set which will indicate the exact amount of cut or fill.
- G. As each construction operation is completed, it shall be approved by the proper Town authority prior to starting work on the succeeding operation.

§ 244-20. Streets and roadways.

69. Editor's Note: Appendix N is on file in the Town offices.

70. Editor's Note: Now the Department of Transportation.

- A. Clearing. The entire area to be paved in each street or sidewalk shall be cleared of all stumps, brush, roots, boulders, loam, peat, mulch, quicksand and other spongy or undesirable material to whatever depth it occurs. All spongy, organic or unstable material shall also be removed at the sides of the roadbed to the point where slopes of three feet horizontal to two feet vertical from the edges of pavement intersect hard bottom, so as to ensure lateral support of the roadway. No rocks over three inches in diameter shall be retained or placed within 18 inches of the street surface. This work shall be inspected and approved as hereinafter described, before continuation of the project. (Standard Specifications 101)
- B. Rough grading. The entire length and width of the vehicular roadway shall be brought to a firm subgrade 15 inches below the finished grade, and the entire length and width of all required sidewalks shall be brought to a firm subgrade nine inches below the finished grade. All fill or ordinary borrow for the subgrade shall consist of firm bearing material acceptable to the Superintendent of Highways and shall contain no loam or organic matter. This work shall be inspected and approved, as hereinafter described, before continuation of the project. (Standard Specifications 170 and 101)
- C. Fill. When in the opinion of the Engineer suitable material is not available within the limits of the highway location to form the subgrade or subbase, the contractor shall obtain such additional material from other sources in accordance with this section and as may be approved by the Highway Superintendent. (Standard Specifications 150)
- D. Utilities.
 - (1) All drain, sewer, gas and water pipes, underground utilities and other structures shall be installed upon the completion of roadway subgrade and before the placing of the subbase, gravel base course, sidewalks or pavement. (Standard Specifications 200)
 - (2) All subsurface utility piping shall be installed to true grade on firm bed free of rocks, soft or unstable material, and shall be backfilled, puddled and tamped only upon inspection and approval of installation in the open trench. Water pipes shall be flushed, chlorinated and tested prior to connection to Town system. No connection will be permitted if evidence of leakage, excessive infiltration or contamination exists. All water main construction shall conform to all specifications of the Town of Southborough's Water Commissioners.
- E. Finish grading and paving. All subgrades of vehicular roadways shall be covered with well-compacted gravel to within 3 1/2 inches below the finish grade shown on the approved profile with a transverse pitch from the center line down toward the edges of roadway of 3/8 inches per foot. Bituminous concrete pavement shall be applied in two courses [three in arterial streets] as specified in Table 4.2.2. Bituminous

concrete shall be Type I-1 or equivalent, as specified in the Standard Specifications for Highways, Bridges and Waterways of the Commonwealth of Massachusetts Department of Public Works.⁷¹ The concrete shall be installed to the approved finish grade and compacted by means of a roller with a pressure of not less than 240 pounds per square inch. Where paved bituminous berms are required, paved surface shall extend 12 inches beyond the edge of roadway with a 3/8 inch minimum pitch toward the gutter, as shown on the standard street cross section.

- F. Roadside grading. Embankments outside the right-of-way shall be evenly graded and pitched at a slope of not greater than two horizontal to one vertical in fill. Where cuts are made in ledge, other slopes may be determined with the approval of the Board. Whenever embankments are built in such a way as to require approval by the Planning Board, the developer must furnish to the Town duly recorded access easements free of encumbrances for maintenance of the slopes, terraces or retaining walls. All such slopes shall be grassed in accordance with the specifications for the area between the roadway and sidewalk or roadway and boundary of the right-of-way. (Standard Specifications 685)

§ 244-21. Sidewalks.

- A. Sidewalks shall be constructed within the subdivision and, when the Board determines it is necessary, outside the subdivision to connect to the existing sidewalks. The sidewalks shall be constructed in accordance with the standard street cross section as shown on the approved plans for the full length of the street layout on one or both sides, as required by the Board, except that in turnarounds the sidewalk shall terminate at the last driveway entrance.
- B. The sidewalks shall be constructed of Type I-1 bituminous concrete in two courses one and 1 1/2 inches thick each on a base of six inches of well-compacted gravel to the required grade. Where driveways cross paved sidewalks, the elevation of driveway shall conform to the elevation and grade of the paved sidewalk and slope down to meet the gutter grade at the roadway for unobstructed drainage.
- C. Bituminous wheelchair ramps between the sidewalk and the roadway shall be required at intersections next to the corner rounding curb on major residential and all commercial collector streets. Under unusual circumstance the Board may specify a location for a pedestrian walk or path other than adjacent to the street right-of-way where necessary to preserve a valuable historical or environmental asset or to facilitate an easier and more direct pedestrian access. (Standard Specifications 700)

§ 244-22. Curbs and berms.

71. Editor's Note: Now the Department of Transportation.

- A. Straight or radial granite curbing. Type VO or VB (see Standard Specifications) with a seven-inch initial reveal of exposed face above gutter shall be installed at street corner roundings and roadway curves as specified in the Table located at the end of these regulations, at all catch basin curb inlets, and where the roadway grade exceeds 6%, as specified in said Table.
- B. Rolled bituminous curbing or Cape Cod berm shall be installed where required to minimize erosion and damage to grass plots: see the table located at the end of these regulations. Bituminous curbing shall extend 12 inches beyond the roadway and shall slope down toward the gutter three inches in 12 inches. Other cross-sectional shapes may be authorized by the Board or the Superintendent of Highways.

§ 244-23. Grass plots.

The entire area between the gutter or curb and the side line of street right-of-way on each side not occupied by a sidewalk shall be graded to within six inches of the finished grade, shall have six-inch depth of well-compacted loam installed, graded to slope down not less than 3/8 inch per foot toward the gutter or curb, and shall be seeded with a high-quality grass seed. The area shall be maintained and reseeded if necessary. Utility and light poles shall be placed in the grass plot, centered three feet away from the gutter or curb face, except that no poles shall be located less than 30 feet from the intersection of tangents of street side lines at corner roundings.

§ 244-24. Shade trees.

- A. Unpaved areas within the right-of-way which have been stripped by construction shall be graded to meet the adjoining property with a slope of not more than one-foot vertical to two feet horizontal. These areas shall be covered with at least six inches of good quality topsoil and thickly seeded with perennial grasses or other planting materials approved by the Board.
- B. Suitable existing trees within the right-of-way approved by the Tree Warden, if larger than four inches caliper and located outside the shoulders, shall be preserved. Trees to be retained shall not have grade changes over their root areas more than 12 inches. Where suitable trees do not exist at intervals of less than 40 feet on each side of the street, they shall be provided by the developer.
- C. Trees to be planted shall be well-branched, nursery-grown stock at least two inches trunk diameter at four feet above ground, and shall be free of injury, harmful insects and diseases. Trees shall be planted in 1/2 cubic yards of loam, guy wired and wrapped as necessary for protection. They shall be long-lived species adapted to the local environment and approved by the Tree Warden.

- D. If any tree dies or has to be removed due to construction, it shall be replaced, so that at least three shade trees per lot are provided at the time of release of the performance guaranty or covenant.

§ 244-25. Street signs.

Coincident with the beginning of construction of any subdivision street, street name signs shall be erected at the entrances thereto from existing streets using dark letters four inches tall on white background and with the bottom of the sign at least eight feet above ground. Such signs shall be replaced by permanent street name signs of a type generally in use in Southborough before release of performance guaranty is requested.

§ 244-26. Monuments.

Granite bounds or reinforced concrete at least three feet long and six inches square in cross section shall be set under the supervision of a registered land surveyor with the top flush with the ground and with a drill hole or lead plug denoting the point at intersection of subdivision boundaries with the right-of-way lines of existing and new streets and at all angle points and points of curvature or tangency in subdivision street right-of-way lines. Reinforced concrete bounds shall be required by the Planning Board at the corner points of the boundaries of the subdivision and at corners and the changes in direction of the boundaries of each lot.

§ 244-27. Special construction details.

- A. Temporary turnarounds. If a subdivision street is constructed in stages and temporarily does not extend to another street or end in a permanent turnaround, a temporary turnaround of a design acceptable to the Board and capable of accommodating a vehicle of 50 feet turning radius shall be installed at the end of the constructed portion of street. Parts of such temporary turnaround located outside the street right-of-way need not have bituminous pavement, but shall have well-compacted waterbound macadam suitable for all weather use. Public travel easements in such temporary turnarounds shall lapse when the street is constructed to another street or turnaround.
- B. Retaining walls. Field masonry retaining walls shall be constructed at street right-of-way line whenever the slope of land adjacent to the street would be too steep for the stability of soil [generally in excess of one-foot vertical to two feet horizontal] or would require grading for more than 30 feet back to meet the existing grade at a slope of one-to-two. Retaining walls shall be bound with cement concrete, be designed according to good engineering practice and provided with drainage weep holes as may be necessary.
- C. Guardrails. At the termination of street pavement at a subdivision boundary or at a lot line or where the land adjacent to street right-of-way falls off steeper than one-foot vertical in three feet horizontally,

four-foot-high wooden guardrails of a design acceptable to the Board and the Superintendent of Highways shall be required.

- D. Culverts. Culverts under streets may be of reinforced concrete, corrugated aluminum, or other suitable material and may be round, elliptical or rectangular in cross section. Culverts of 18 inches or greater inside diameter shall be provided with gratings at both ends for safety. Culverts of 24 inches or greater inside diameter shall normally require wing-walls at exits to prevent erosion or weakening of embankments. If the top of a culvert is within 30 inches of street surface, a concrete saddle may be required to reduce the danger of crushing. The design of culverts and of approaches and downstream channels shall adhere to good engineering practice and may include provisions to minimize damage from flooding.

ARTICLE VI
Administration

§ 244-28. Variances and waivers.

Strict compliance with the requirements of these rules and regulations may be waived, when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

§ 244-29. Applicability of statute.

For matters not covered by these rules and regulations, reference is made to MGL c. 41, §§ 81K to 81GG, inclusive, as amended.

§ 244-30. Appeals authority.

As provided for by MGL c. 41, §§ 81Z and 81AA, the Zoning Board of Appeals of the Town of Southborough shall act as Subdivision Board of Appeals and may authorize the issuance of building permits for lots where the denial of such permit under the provisions of the Subdivision Control Law would entail unnecessary hardship or difficulty and where the building need not be related to an approved or constructed way.

§ 244-31. Building permits.

No building shall be erected in a subdivision unless the lot on which it is to be located has been first released by a written vote of the Planning Board evidenced by Form K, Certificate of Performance — Covenant,⁷² or by a surety agreement secured by bond, savings passbook or other negotiable securities, or by withholding construction mortgage money and enumerating the lots released in consideration of such agreement. The Building Inspector shall issue no building permit for the erection or location of a building on a lot until he is first satisfied that the lot is not in a subdivision or that such lot has been released for building as specified above, and that any restrictions or conditions limiting the right to erect and maintain buildings on said lot have been satisfied or waived by the Planning Board. In the event that more than one principal building is to be erected or placed on a lot, whether or not within a subdivision, the Building Inspector shall first verify that consent has been obtained from the Planning Board, as provided by Article II of these rules and regulations and by MGL c. 41, § 81-4.

§ 244-32. Inspections.

- A. Inspections and payment therefore shall be arranged by the developer with the proper Town official for that purpose prior to the construction of streets and the installation of utilities and during construction as specified herein at each significant construction stage.

72. Editor's Note: Form K is on file in the Town offices.

- B. Inspection shall be requested in writing at least 48 hours in advance of each inspection to the proper Town official and a copy of each request shall be sent to the Planning Board.
- C. Inspection shall be for each of the following operations or construction phases:
- (1) Excavation and removal of unsuitable material.
 - (2) Laying of water mains and appurtenances.
 - (3) Laying of gas mains and appurtenances.
 - (4) Installation of surface and subsurface drainage systems and related structures, appurtenances and channels.
 - (5) Fill with approved material.
 - (6) Compacting and rolling.
 - (7) Installation of electric and other lines or conduits and related equipment, including telephone, cable television and fire alarm conduits.
 - (8) Completion of the pavement in the required number of courses and true to grade.
 - (9) Placing of curbs.
 - (10) Construction of sidewalks.
 - (11) Installation and finish grading of loam and seeding of grass plots and roadside slopes.
 - (12) Satisfactory maintenance or planting of shade trees.
 - (13) Installation of monuments.
 - (14) Installation of hydrants.
- D. The Planning Board may establish the order of the required inspection and require satisfactory completion of one step before the subdivider proceeds to the next. The Board may require tests to be done by the subdivider as a condition for approval when in the opinion of the Planning Board it is advisable. Failure to have work inspected before it is covered up may necessitate excavation or opening of trenches or may lead to rejection of work.
- E. The proper Town official shall indicate on Form L, Inspection Form (Appendix L),⁷³ provided by the Planning Board, the date of inspection and the approval and shall file such form with Planning Board.

73. Editor's Note: Appendix L is on file in the Town offices.

§ 244-33. Maintenance of improvements.

For the purpose of protecting the safety, convenience and welfare of the Town's inhabitants; for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for reducing the danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; under the authority of MGL c. 41, § 87-M,⁷⁴ as amended, the applicant and his successors-in-title to the subdivision or lots therein shall provide for the proper maintenance and repair of the construction required by the definitive plan and the improvements under this Section of the rules and regulations during the construction and after the completion of the construction and improvements until the Town votes to accept such construction and improvements. Such maintenance shall also include snow removal beginning from the time of occupancy of an individual or tenant other than the developer.

§ 244-34. Compliance with National Flood Insurance Program.

All definitive plans must be consistent with the need to minimize flood damage, provide that all public utilities and facilities, such as sewer, gas, electric and water systems, shall be located, elevated and constructed to minimize or eliminate flood damage, provide adequate drainage so as to reduce exposure to flood hazards and comply with other requirements of the National Flood Insurance Act, as amended from time to time, to the extent in force and applicable.

§ 244-35. Severability.

The provisions of these rules and regulations shall be severable, and if any provision or the application thereof is found to be invalid, this shall not affect the validity of any other application or provision thereof.

74. Editor's Note: See MGL c. 41, § 81M.

Chapter 249

ZONING BOARD OF APPEALS

GENERAL REFERENCES

Zoning — See Ch. 174.

§ 249-1. Authority; amendments.

- A. The following rules and regulations are adopted by the Southborough Zoning Board of Appeals under the authority of, and in compliance with, MGL c. 40A, § 12. These rules and regulations shall become effective upon the filing of the same with the Town Clerk for the Town of Southborough.
- B. These rules and regulations may be amended at any time by the Zoning Board of Appeals. Any such amendments shall be filed with the Town Clerk in the same manner in which these rules and regulations were so filed. Such amendments shall take effect upon being filed with the Town Clerk.
- C. These rules and regulations supersede any and all previous regulations of the Zoning Board of Appeals.

§ 249-2. Chairman; disqualification of members.

- A. Chairman: A Chairman shall be elected annually no later than June 30 by majority vote of the Full Members of the Board and will serve for a twelve-month term from July 1 through the subsequent June 30. Should a new Chairman not be elected by June 30 of a particular year, the then-current Chairman shall continue to serve as Chairman until a successor is elected. The Chairman shall be responsible for the overall conduct of the Board's activities, including but not limited to:
[Amended 9-28-2011]

- (1) Calling meetings;
 - (2) Presiding at meetings and regulating their conduct; and
 - (3) Authorizing purchase orders for expenditures by the Board.

The Chairman may, at his/her discretion, designate another Board member to fulfill certain of these duties.

- B. Members. Members and alternates shall be responsible for disqualifying themselves from participation in the deciding of any case coming before the Board where the member or alternate has any substantial conflict of interest pertaining to the subject matter of the particular case.

§ 249-3. Meetings; hearings.

- A. Five members of the Board shall be present at every hearing. Four members may hold a hearing and act on the matter before the Board, provided that the interested parties assent thereto before the hearing opens. Any hearing may be adjourned for any reason by the Board, or by any member in case of the absence of a quorum, to a later date by a statement to that effect at the hearing, and the hearing as so adjourned from time to time may be held without any further notice, unless the Board shall vote that such notice shall be given.
- B. The Board will hold public hearings on all applications submitted to it. A quorum shall consist of four members or their alternates. No member shall appear or represent any person in any matter pending before the Board. No member shall hear or decide an appeal in which he is directly or indirectly interested in a personal or financial sense.
- C. The hearings will proceed as follows:
 - (1) The Chairman will call the meeting to order and read the notice of hearing as it appeared in the paper.
 - (2) The applicant or his representative shall present the case to the Board.
 - (3) The abutters to the property present at the hearing may be heard and duly recorded.
 - (4) Any other interested parties present at the hearing may be heard.
 - (5) Town representatives may be heard (Planning Board, Selectmen, other boards, etc.).
 - (6) The Chairman shall inform those present at the hearing as to the time requirements, under MGL c. 40A, § 21,⁷⁵ for appealing the decision of the Board.
- D. Hearings before the Board:
 - (1) All hearings of the Board shall be open to the public.
 - (2) The transcript of each hearing shall state the members of the Board present and other persons who speak at the hearing and shall contain a summary of the evidence given.
 - (3) The transcript shall be signed by the Secretary or Acting Secretary.
- E. Rules governing appeals and petitions.
 - (1) Forms for appeals and petitions. All appeals and petitions to the Board of Appeals shall be presented on forms to be supplied by the Board and obtained through the office of the Inspector of

75. Editor's Note: See MGL c. 40A, § 17, Judicial Review.

Buildings, the Selectmen's office or from the Secretary of the Board of Appeals.

- (2) Filing. Appeals and petitions to the Board of Appeals shall be filed with the Secretary of the Board, together with the filing fee, and a copy shall be filed with the Town Clerk.
- (3) Filing fee. The applicant shall pay a fee of \$50 to the Secretary of the Board of Appeals, the check to be made payable to the Town of Southborough.
- (4) Limitation of time in certain appeals. Appeals from an order of the Inspector of Buildings or other administrative officers or boards or from a refusal by any board to issue a license or permit shall be filed within 30 days of such order or refusal.
- (5) Notice of hearings. Notice of public hearing will be given in accordance with applicable sections of Chapter 10A of the General Laws of the Commonwealth of Massachusetts.
- (6) Hearings. Hearings of the Board of Appeals shall be held at the Town Hall or at such other place within the Town as may be designated by the Board.
- (7) Appearance. At a hearing before the Board, any party may appear in person or by agent or attorney. Every such agent or attorney shall file with the Secretary his full name, address and the name of the party he represents.

F. Decision of Board.

- (1) The record of the meetings of the Board shall show the vote of each member present upon each question, the names of those members absent or failing to vote and shall set forth clearly the reason or reasons for its decisions and of its other official actions, copies of all of which shall be filed in the office of the Town Clerk of Southborough and shall be a public record.
- (2) Upon the granting of a limited or conditional zoning variance or special permit, the Board shall issue to the owner of the land involved a notice, certified by the Chairman or Acting Chairman, Clerk or Secretary, containing the name and address of the landowner, identifying the land affected and stating that a limited or conditional variance or special permit has been granted which is set forth in the decision of the Board on file in the office of the Town Clerk of Southborough. No such variance or permit shall take effect until such notice is recorded in the registry of deeds for the County of Worcester by the owner, who shall be responsible for such recording and for paying any fees in connection therewith.
- (3) If there is any conflict between these rules and regulations or the Zoning Bylaw of the Town of Southborough and the General Laws

of the Commonwealth of Massachusetts pertaining to zoning, then the laws of the Commonwealth of Massachusetts shall govern in all such cases.

Chapter A252

GENERAL LAWS AND SPECIAL ACTS

§ A252-1. General Laws.

The following is a list of General Laws and Acts of the Legislature accepted by the Town of Southborough:

| Action Taken | Chapter or Act | Subject |
|---------------------|--------------------------------------|-------------------------------------------------|
| 3-23-1891 | Ch. 386, Acts of 1890 | Ballots |
| 3-1-1909 | Ch. 209, Acts of 1908 | Forest fires |
| 11-5-1912 | Ch. 503, Acts of 1912 | Pensioning laborers |
| 11-4-1913 | Ch. 807, Acts of 1913 | Workmens' compensation |
| 11-3-1914 | Ch. 217, Acts of 1914 | Vacations for laborers |
| 11-3-1914 | Ch. 634, Acts of 1911 | Retirement system |
| 11-3-1914 | Ch. 790, Acts of 1914 | Party enrollment |
| 11-4-1914 | Ch. 688, Acts of 1914 | Saturday half holiday |
| 3-1-1915 | Ch. 807, Acts of 1913 | Workmens' compensation |
| 11-4-1919 | Ch. 311G, Acts of 1919 | Continuation of schools |
| 8-6-1921 | Ch. 591, §§ 27, 28, 29, Acts of 1920 | Establish Fire Department |
| 3-6-1922 | MGL c. 54, § 6 | Precincts |
| 10-8-1923 | Ch. 474, Acts of 1923 | Fayville Fire/Water District |
| 11-19-1926 | Ch. 371, Acts of 1926 | Railroad securities |
| 4-18-1930 | Ch. 133, Acts of 1930 | Water supply |
| 3-14-1938 | MGL c. 54 | Absentee voting |
| 11-5-1946 | Ch. 166, Acts of 1946 | Equal pay for teachers |
| 3-14-1955 | MGL c. 41, § 97A | Establish Police Department and Chief of Police |
| 3-14-1960 | MGL c. 139 §§ 1-3 | Burned/dangerous bridges |
| 5-25-1960 | MGL c. 40, § 8C | Conservation Commission |
| 3-11-1963 | MGL c. 40, § 8A | Industrial Development Commission |
| 3-12-1963 | Ch. 782, Acts of 1962 | Accelerated Highway Program |
| 3-8-1965 | MGL c. 40, § 5B | Establish Stabilization Fund |
| 3-15-1965 | MGL c. 32B | Contributory group insurance |

| Action Taken | Chapter or Act | Subject |
|---------------------|------------------------------------------|------------------------------------------------------------------------------------------------------------|
| 3-19-1969, Art. 47 | MGL c. 40, § 8D | Establishment of Historical Commission |
| 3-20-1972 | Ch. 486, Acts of 1971 | Beano |
| 5-12-1975 | MGL c. 40D | Industrial Development Financing Authority |
| 9-3-1975 | Ch. 586, Acts of 1975; MGL c. 41, § 41B | Town Treasurer/direct deposit |
| 10-21-1977 | Ch 665, Acts of 1977 | Establish recreation/park service |
| 4-13-1978 | MGL c. 40, § 8E | Establish Youth Commission |
| 4-13-1980 | MGL c. 32B, § 10A | Group dental insurance |
| 4-14-1980 | MGL c. 32B, § 7A | Increase Town's share of the cost for municipal employees Blue Cross/Blue Shield insurance from 50% to 75% |
| 5-12-1980 | MGL c. 258, § 13 | Indemnification of municipal officers |
| 4-13-1981, Art. 10 | Ch. 217, Acts of 1980; MGL c. 40, § 4G | Bidding on public contracts |
| 4-13-1981 | MGL c. 71, § 71E | Adult education program |
| 7-21-1981 | Ch. 351, § 83, Acts of 1981 | License amusement devices |
| 12-7-1981 | Ch. 605, Acts of 1981 | Parking regulations |
| 12-23-1981 | MGL c. 90, § 20A | Parking regulations |
| 1-18-1982 | Ch. 809, Acts of 1981 | Assistant Electrical Inspector |
| 4-23-1982 | Ch. 43, Acts of 1982; MGL c. 71, § 71F | Tuition for nonresident students |
| 6-2-1982 | MGL c. 148, § 26C | Heat detector |
| 6-2-1982 | MGL c. 148, § 26E | Heat detectors in private homes |
| 12-15-1982 | Ch. 545, Acts of 1982; MGL c. 148, § 26G | Automatic sprinklers |
| 4-9-1984 | MGL c. 59 § 5 | Senior citizen homeowners tax exemption, \$175 |
| 4-9-1984 | MGL c. 41B § 5 | Senior citizen homeowners tax abatement, \$500 |
| 4-9-1984 | MGL c. 37A, § 5 | Blind homeowners tax abatement, \$500 |

| Action Taken | Chapter or Act | Subject |
|---------------------|-------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| 5-13-1985 | MGL c. 32, § 9A | Payment by Town of one-half the premium costs for retired employees for insurance |
| 1-27-1986, Art. 7 | MGL, c. 64G, § 3A | Local occupancy excise 4%, effective 4-1-1986 |
| 4-14-1986 | MGL c. 41, § 21A | Removal of Chief of Police or head of Municipal Police Department |
| 4-13-1987 | MGL c. 40 § 4H | Purchase of equipment from other government agencies |
| 4-13-1987, Art. 34 | Ch. 194, Acts of 1986 | Scholarship fund |
| 4-13-1987, Art. 37 | Ch. 265, Acts of 1986; MGL c. 148, § 26H | Automatic sprinklers in boardinghouses |
| 4-13-1987, Art. 48 | Ch. 73, § 1, Clause 17D, Acts of 1986; MGL c. 59, § 5, Clause 17D | Broader tax exemptions for surviving spouse, aged person or minor |
| 4-13-1987, Art. 49 | Ch. 73, § 3, Clause forty-first C, Acts of 1986; MGL c. 59, § 5 | Property tax for those 70 years and over |
| 4-13-1987, Art. 50 | Ch. 640, Acts of 1985; MGL c. 40 § 57 | License denial for failure to pay taxes or charges |
| 4-11-1988, Art. 7 | MGL c. 62F, § 4 | Establish Land Bank and Housing Fund |
| 4-12-1988, Art. 39 | MGL c. 140, § 147 amended by Ch. 308, Acts of 1985 | Town of Southborough assumes dog licensing responsibility |
| 4-24-1990, Art. 24 | Ch. 642, Acts of 1989; MGL c. 148, § 26I | Automatic sprinklers in new construction |
| 4-30-1990, Art. 45 | MGL c. 32, § 22D | Retirement system funding schedule |
| 4-23-1990, Art. 47 | Ch. 653, § 41, Acts of 1989; MGL c. 59, § 57c | Quarterly tax bills |
| 4-8-1991 | Ch. 291, Acts of 1990 | Enhanced 911 service |
| 4-8-1991 | Ch. 245, Acts of 1988 | Spending up to \$100,000 |
| 4-8-1991 | Ch. 213, Acts of 1989 | Penalize those who abandon motor vehicles |
| 4-8-1991 | MGL c. 161B, § 3 | Join Worcester Regional Transit Authority for elderly and handicapped |

| Action Taken | Chapter or Act | Subject |
|---------------------|-----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4-13-1992, Art. 9 | Ch. 275, § 1, 2, Acts of 1990; MGL c. 44, § 53E 1/2 | Establish certain revolving funds for Sealer of Weights and Measures, plumbing and wiring |
| 4-14-1992 | MGL c. 161B, § 3 | Join Worcester Regional Transit Authority |
| 4-14-1992 | MGL c. 33 § 59 | Continuation of pay to employees in armed forces |
| 4-14-1992 | Ch. 138, § 123, Acts of 1991; MGL c. 40, § 22F | Setting municipal fees and charges |
| 4-11-1994, Art. 38 | Ch. 71, § 83, Acts of 1993 | Teachers' early retirement incentive program |
| 4-10-1995 | MGL c. 40 § 8G | Mutual aid for Police Departments |
| 4-8-1996, Art. 70 | MGL c. 32B, § 9D 1½ | Group insurance coverage for surviving spouses of retirees |
| 4-8-1996, Art. 71 | MGL c. 32B, § 9D | Additional group insurance coverage for surviving spouses of retirees |
| 4-8-1996, Art. 72 | MGL c. 32B § 9I | Group insurance coverage for employees on military leave or active service |
| 4-13-1998 | MGL c. 40, § 13C | Workers' Compensation claim reserve fund |
| 4-12-1999 | MGL c. 41, § 108L | Acceptance of the Quinn Bill |
| 4-15-1999 | Ch. 653, § 40, Acts of 1989 | Assessment of new buildings structures or physical improvements |
| 4-15-1999 | MGL c. 59, § 5, Clause 18 | Nonbinding resolution guidelines for determining hardship real estate tax exemptions |
| 4-9-2002 | MGL c. 59, § 5, Clause 41A | Tax deferral for homeowners 65 years or older by amending an applicant's gross receipts from \$20,000 to an amount not to exceed \$40,000 |
| 4-9-2002 | MGL c. 59, § 5, Clause 17C 1/2 | Increasing the exemption for certain senior citizens and surviving spouses and minors in accordance with the annual adjustment of the consumer price index |

| Action Taken | Chapter or Act | Subject |
|---------------------|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10-21-2002 | MGL c. 59, § 5, Clause 41C | Change the senior option eligible age from 70 to 65 years and increasing the income and asset limits and the amount of exemption. |
| 10-21-2002 | MGL c. 59, § 5K | Amending the assistance under Senior Work Program from \$500 to \$750, effective for FY04 |
| 10-21-2002 | MGL c. 60, § 3D | Providing a place on municipal tax bills for a voluntary checkoff of not less than \$1 for establishing a town aid for the elderly and disabled taxation fund, effective 7-1-2003 |
| 5-12-2003 | MGL c. 44B, §§ 3 - 7 | Community Preservation Act |
| 3-23-2004 | MGL c. 32B, § 16 | Optional insurance for services of health care organizations |
| 4-11-2005, Art. 3 | Ch. 491, Acts of 2004; MGL c. 44, § 55C | Affordable Housing Trust Fund |
| 4-11-2005, Art. 8 | Ch. 137, §§ 1, 2, 3, Acts of 2003 | Military leaves of absence of Town employees |
| 4-11-2005 | MGL c. 40, § 4A | Authorizing municipality to enter into an intermunicipal joint purchasing agreement for provision of technology solutions and related consulting and support services |
| 11-27-2006 | MGL c. 39, § 23D | Voting at adjudicatory hearings of boards, commissions and committees |
| 11-27-2006 | MGL c. 44, § 53E 1/2 | Revolving fund account to pay expenses of immunization and emergency dispensing clinics |
| 4-10-2007, Art. 38 | MGL c. 44, § 53E 1/2 | Revolving fund account to pay expenses of Recreation Department |
| 4-14-2008, Art. 8 | MGL c. 40, § 3 | Allowing Southborough School District to keep monies received from the rental of the school space in Neary School |

| Action Taken | Chapter or Act | Subject |
|---------------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4-17-2008, Art. 49 | MGL c. 82A, § 2 | Vote to designate the Board of Selectmen as the means by which the Town shall designate the board or officer to issue permits for creating trenches |
| 4-17-2008, Art. 52 | MGL c. 44, § 53D | Authorizing Recreation Revolving Account |
| 4-14-2009, Art. 1 | MGL c. 44, § 53E 1/2 | Revolving fund account to cover Public Safety and Public Works departments' costs incurred by responding to incidents involving hazardous material |
| 4-14-2009, Art. 6 | MGL c. 71, § 14E(3) | Approving amendment to the Assabet Valley Regional Vocational School District Agreement |
| 9-29-2009, Art. 2 | MGL c. 59, § 5K | Property tax liability reduced for persons over age 60 in exchange for volunteer services |
| 9-29-2009, Art. 3 | MGL c. 32B, § 18A | Requiring any future Medicare-eligible retiree who wishes to continue health care benefits to be transferred to a Medicare supplemental health plan offered by the Town |
| 9-29-2009, Art. 11 | MGL c. 44, § 53E 1/2 | Revolving fund account for Conservation Commission local wetland filing fees |
| 1-25-2011 | MGL c. 48, § 59A | Fire Department aid to other municipalities and jurisdictions |
| 4-12-2011, Art. 22 | MGL c. 64G, § 3A | Local room occupancy excise tax at rate of 6% |
| 4-12-2011, Art. 23 | MGL c. 138, § 33B | Sale of alcoholic beverages on Sundays beginning at 10:00 a.m. |
| 4-12-2011, Art. 31 | MGL c. 44, § 53E 1/2 | Revolving fund for Department of Public Works for 9-11 Field Maintenance and usage and DCR annual fee to a maximum of \$50,000 |

| Action Taken | Chapter or Act | Subject |
|---------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4-8-2013, Art. 4 | MGL c. 30, § 12(b) | Authorize Board of Selectmen and/or Superintendent of Schools to enter into contracts in excess of three years |
| 4-8-2013, Art. 12 | MGL c. 44, § 53E 1/2 | Revolving fund for Tobacco Control Program to allow the Board of Health to conduct periodic compliance checks with vendors to a maximum of \$4,000 |
| 4-8-2013, Art. 13 | MGL c. 40, § 13D | Reserve fund for Assabet Regional Vocational School District for compensated absences |
| 4-8-2013, Art. 22 | MGL c. 32B, § 20 | Other Post-Employment Benefits Liability Trust Fund |
| 4-16-2014, Art. 10 | MGL c. 44, § 53E 1/2 | Revolving fund for technology fee from permits for the annual costs of municipal licensing/permitting software to a maximum of \$40,000 |
| 4-12-2016, Art. 28 | 780 CMR 115.AA | MA Board of Building Regulations and Standards Stretch Energy Code, including future editions, amendments or modifications thereto, effective 1-1-2017 |

§ A252-2. Special Acts.

The following is a chronological list of Special Acts and Resolves adopted in General Court pertaining to the Town of Southborough:

| Year Enacted | Resolve or Chapter | Subject |
|---------------------|-----------------------------|------------------------------------------------------------|
| 1968 | Ch. 513 of the Acts of 1966 | Formation of a Vocational Regional School District |
| 1976 | Ch. 483 | Combine and appoint Town Treasurer and Tax Collector |
| 1981 | Ch. 16 | Additional license for sale of alcoholic beverages |
| 1986 | Ch. 479 | Land on Framingham Road and Marlboro Road from MDC to town |
| 1989 | Ch. 638 | Osgood T. Hadley Memorial Bridge (Route 9) |

| Year Enacted | Resolve or Chapter | Subject |
|---------------------|---------------------------|---------------------------------------------------------------------------------|
| 1991 | Ch. 447 | Establish a Department of Public Works |
| 1995 | Ch. 10 | Election of Regional School Committee members |
| 1996 | Ch. 149 | Parcel of land (Middle Road to Cordaville Road) for cemetery purposes |
| 1996 | Ch. 474, § 5 | Robert R. Foley, Jr. Memorial Bridge (Route 85) |
| 2001 | Ch. 38 | Establishing boundary line between Town of Southborough and Town of Westborough |
| 2013 | Ch. 134 | Increasing the membership of the Board of Selectmen |
| 2013 | Ch. 177 | Authorizing the Administrator to sign warrants |
| 2014 | Ch. 329 | Additional license for sale of alcoholic beverages |
| 2014 | Ch. 330 | Additional license for sale of alcoholic beverages |
| 2016 | Ch. 40 | Additional license for sale of alcoholic beverages |

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

| Enactment | Adoption Date | Subject | Disposition |
|--------------------|----------------------|-------------------------------------------|--------------------|
| Board of Selectmen | 3-23-2004 | General Law acceptance | Ch. A252 |
| ATM, Art. 3 | 4-12-2004 | Administration amendment | Ch. 3 |
| ATM, Art. 40 | 4-12-2004 | False alarms | Ch. 95 |
| ATM, Art. 44 | 4-12-2004 | Housing Opportunity Partnership Committee | Ch. 6, Art. IV |
| ATM, Art. 55 | 4-12-2004 | Administration amendment | Ch. 3 |

| Enactment | Adoption Date | Subject | Disposition |
|-----------------------|----------------------|---------------------------------------------------|-------------------------------|
| ATM, Art. 56 | 4-12-2004 | Community Preservation Committee | Ch. 9, Art. IV |
| ATM, Art. 45 | 4-12-2004 | Zoning amendment | Ch. 174 |
| Board of Selectmen | 8-31-2004 | Vehicles and traffic amendment | Ch. 207 |
| Board of Selectmen | 7-20-2004 | Cemetery amendment | Ch. 68 |
| STM, Art. 3 | 4-11-2005 | General Law acceptance | Ch. A252 |
| ATM, Art. 8 | 4-11-2005 | General Law acceptance | Ch. A252 |
| ATM, Art. 54 | 4-11-2005 | Selectmen: transfer station; violations and fines | Ch. 36, Art. III |
| ATM, Art. 39 | 4-11-2005 | Zoning amendment | Ch. 174 |
| ATM, Art. 40 | 4-11-2005 | Zoning amendment | Ch. 174 |
| ATM, Art. 48 | 4-11-2005 | Intermunicipal joint purchasing agreement | See Ch. A252 |
| ATM, Art. 42 | 4-10-2006 | Zoning Map | Ch. 174, footnote only |
| ATM, Art. 43 | 4-10-2006 | Zoning amendment | Ch. 174 |
| ATM, Art. 44 | 4-10-2006 | Earth removal | Ch. 85 |
| ATM, Art. 45 | 4-10-2006 | Illicit discharge | Ch. 225 |
| ATM, Art. 46 | 4-10-2006 | Zoning amendment | Ch. 174 |
| ATM, Art. 47 | 4-10-2006 | Zoning amendment | Ch. 174 |
| ATM, Art. 53 | 4-10-2006 | Commissioners of Trust Funds | Ch. 9, Art. V |
| STM, Art. 9 | 11-27-2006 | Revolving fund account | See Ch. A252 |
| STM, Art. 11 | 11-27-2006 | General Law acceptance | Ch. A252 |
| ATM, Art. 32 | 4-10-2007 | Capital Budget Planning Committee amendment | Ch. 9, Art. II |
| ATM, Art. 34 | 4-9-2007 | Town Meetings amendment | Ch. 41, Art. I |
| ATM, Art. 35 | 4-10-2007 | Commissioners of Trust Funds amendment | Ch. 9, Art. V (footnote only) |
| ATM, Art. 36 | 4-10-2007 | Police user detail fees | Ch. 234, Art. I |
| ATM, Art. 38 | 4-10-2007 | General Law acceptance | Ch. A252 |

| Enactment | Adoption Date | Subject | Disposition |
|--------------------|----------------------|------------------------------------------------------------------|--------------------|
| ATM, Art. 39 | 4-10-2007 | Selectmen: transfer station; violations and fines amendment | Ch. 36, Art. III |
| STM, Art. 1 | 4-14-2008 | General Law acceptance | Ch. A252 |
| ATM, Art. 8 | 4-14-2008 | General Law acceptance | Ch. A252 |
| ATM, Art. 34 | 4-15-2008 | Advisory Committee amendment | Ch. 9, Art. III |
| ATM, Art. 37 | 4-15-2008 | Zoning amendment | Ch. 174 |
| ATM, Art. 38 | 4-15-2008 | Zoning amendment | Ch. 174 |
| ATM, Art. 49 | 4-17-2008 | General Law acceptance | Ch. A252 |
| ATM, Art. 51 | 4-15-2008 | Registered sex offender restrictions | Ch. 118 |
| ATM, Art. 52 | 4-17-2008 | General Law acceptance | Ch. A252 |
| Board of Selectmen | 2-3-2009 | Vehicles and traffic amendment | Ch. 207 |
| STM, Art. 1 | 4-14-2009 | General Law acceptance | Ch. A252 |
| STM, Art. 6 | 4-14-2009 | General Law acceptance | Ch. A252 |
| ATM, Art. 26 | 4-14-2009 | Southborough Housing Opportunity Partnership Committee amendment | Ch. 6, Art. IV |
| STM, Art. 2 | 9-29-2009 | General Law acceptance | Ch. A252 |
| STM, Art. 3 | 9-29-2009 | General Law acceptance | Ch. A252 |
| STM, Art. 5 | 9-29-2009 | Zoning amendment | Ch. 174 |
| STM, Art. 8 | 9-29-2009 | Dogs and other animals amendment | Ch. 81 |
| STM, Art. 10 | 9-29-2009 | Public consumption of marijuana or tetrahydrocannabinol | Ch. 51 |
| STM, Art. 11 | 9-29-2009 | General Law acceptance | Ch. A252 |
| STM, Art. 13 | 9-29-2009 | Town Meeting Report and Warrant amendment | Ch. 41, Art. III |
| ATM, Art. 19 | 4-13-2010 | Administration amendment | Ch. 3 |
| Board of Selectmen | 1-25-2011 | General Law acceptance | Ch. A252 |
| ATM, Art. 22 | 4-12-2011 | General Law acceptance | Ch. A252 |
| ATM, Art. 23 | 4-12-2011 | General Law acceptance | Ch. A252 |
| ATM, Art. 31 | 4-12-2011 | General Law acceptance | Ch. A252 |

| Enactment | Adoption Date | Subject | Disposition |
|-------------------------|----------------------|--------------------------------------------------------------------------|---------------------------------|
| ATM, Art. 32 | 4-12-2011 | Zoning amendment | Ch. 174 |
| Zoning Board of Appeals | 9-28-2011 | Zoning Board of Appeals amendment | Ch. 249 |
| ATM, Art. 22 | 4-10-2012 | Fire Department: pumping water from private buildings | Ch. 96, Art. I |
| Board of Selectmen | 4-23-2012 | Vehicles and traffic amendment | Ch. 207 |
| ATM, Art. 4 | 4-8-2013 | Finance: contracts | Ch. 16, Art. IV |
| ATM, Art. 7 | 4-8-2013 | Town Administrator | Ch. 27, Art. IX |
| ATM, Art. 12 | 4-8-2013 | General Law acceptance | Ch. A252 |
| ATM, Art. 13 | 4-8-2013 | General Law acceptance | Ch. A252 |
| ATM, Art. 21 | 4-8-2013 | Capital Budget Planning Committee repealer | Ch. 9, Art. II (reference only) |
| ATM, Art. 22 | 4-8-2013 | General Law acceptance | Ch. A252 |
| STM, Art. 9 | 10-7-2013 | Zoning amendment | Ch. 174 |
| Acts of 2013, Ch. 134 | 11-20-2013 | Special Act (increasing membership of Board of Selectmen) | Ch. A252 |
| Acts of 2013, Ch. 177 | 12-6-2013 | Special Act (authorizing Town Administrator to sign warrants) | Ch. A252 |
| ATM, Art. 10 | 4-16-2014 | General Law acceptance | Ch. A252 |
| ATM, Art. 17 | 4-16-2014 | Zoning amendment | Ch. 174 |
| ATM, Art. 18 | 4-16-2014 | Flood insurance | Ch. 19 |
| ATM, Art. 19 | 4-16-2014 | Zoning amendment | Ch. 174 |
| ATM, Art. 23 | 4-14-2015 | Boards, committees and commissions: residency requirement; qualification | Ch. 9, Art. VI |
| ATM, Art. 26 | 4-14-2015 | Zoning amendment | Ch. 174 |
| ATM, Art. 29 | 4-14-2015 | Demolition delay | Ch. 63 |
| ATM, Art. 27 | 4-12-2016 | Zoning amendment | Ch. 174 |
| ATM, Art. 28 | 4-12-2016 | General Law acceptance | Ch. A252 |
| ATM, Art. 32 | 4-12-2016 | Selectmen: transfer station; violations and fines amendment | Ch. 36, Art. III |
| ATM, Art. 33 | 4-12-2016 | Dogs amendment | Ch. 81, Art. II |

| Enactment | Adoption Date | Subject | Disposition |
|------------------|--------------------------|-----------------------------------------------------------------------------------------------------------------------|---------------------------|
| ATM, Art. 34 | 4-12-2016 | Dogs amendment | Ch. 81, Art. II |
| ATM, Art. 35 | 4-12-2016 | Boards, committees and commissions: residency requirement; qualification; minutes; social media amendment | Ch. 9, Art. VI |
| ATM, Art. 36 | 4-12-2016 | Town meetings amendment; Town elections | Ch. 36, Art. I; Ch. 42 |
| ATM, Art. 37 | 4-12-2016 | Zoning amendment | Ch. 174 |
| STM, Art. 6 | 10-18-2016 | Zoning amendment | Ch. 174 |