

General Bylaws of Abington (excluding zoning bylaws)

CODE OF THE TOWN OF ABINGTON, MASSACHUSETTS

PART I GENERAL BYLAWS

With revisions and comments as of February 21, 2006 [\[SPRI\]](#)

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CHAPTER 1, GENERAL PROVISIONS

ARTICLE I, General Penalty

§1-1. Maximum fine.

The penalty for breaches of any of the Bylaws^[SPR2] for the Town shall be a fine not exceeding **\$300** ~~\$50~~ for each offense, except where a different penalty is **specifically** ~~specifically~~ provided for such breach by these Bylaws or by any other controlling provision of law^[SPR3]. **After delivery of a written notice of a violation to the offending party, each day that a violation exists shall constitute a separate offense.**

[See MGL c.40 §21]

ARTICLE II, Terms and References

§1-3. Reference to statute[\[SPR6\]](#).

Any reference within these Bylaws to a regulation or statute enacted by the Commonwealth of Massachusetts shall incorporate by reference the provisions of said regulation or statute, as they may be amended in the future. In the event the provisions of a Bylaw conflict with the provisions of state regulation or statute, the more restrictive and/or more definitive provisions shall prevail, unless otherwise mandated by law.

§1-4. Town website[\[SPR7\]](#).

All references in these Bylaws to the “Town website” or “Town’s website” shall mean the official town website registered and operated by the Town of Abington.

CHAPTER 7, ALCOHOLIC BEVERAGES

GENERAL REFERENCES

Peace and good order – See Ch. 113.

ARTICLE I, Consumption in Public

§7-1. Drinking on public or private property restricted.

No person shall drink alcoholic beverages as defined in Chapter 138, Section 1 of the General Laws while on, in or upon any public way or upon any way to which the public has a right of access, or **any public park, public playground or public recreational area**, or any place to which members of the public have access as invitees or licensees, ~~park or~~

All alcoholic beverages being used in violation of this Bylaw shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court.

§7-3. Violations and penalties.

Whoever violates any provision of this Bylaw shall be liable to **pay a fine a penalty** of not more than **\$100 \$50** for each violation.

CHAPTER 11, ANIMALS

ARTICLE I, Pasturing of Certain Animals

§11-1. Pasturing within streets or ways prohibited.

No person shall pasture or cause to be pastured any cattle or other animals upon or within the limits of any street or way of the Town, either with or without a keeper.

ARTICLE II, Dogs

§11-2. Running at large prohibited; exception for hunting purposes.

- A. An owner or keeper of a dog shall not cause or permit such a dog to run at large in any street or public place or upon the premises of anyone other than the owner or keeper, unless the owner or occupant of such premises grants permission. While in any public place or street, dogs shall be under restraint by owner or keeper. A dog is under restraint within the meaning of this Bylaw if it is controlled by a leash or at "heel" beside a competent person and obedient to that **person's persons** ~~or commands~~ or **confined** within a vehicle driven or parked on a street

Dogs running at large shall be impounded. If the owner is known, notice shall be given within three days to such owner. If the owner is unknown, disposition of a dog shall be as provided under Massachusetts General Laws, Chapter 140, Section 151A. The owner or keeper of any dog so impounded may reclaim such dog upon payment of the dog license fee if it is then unpaid, and upon payment of **any outstanding fines**, ~~the following~~ maintenance and administrative charges [\[SPR9\]](#).

~~A.—Current boarding rate as allowed under Chapter 140, Section 151A for each day dog is held in the pound.~~

~~B.—Violation of Leash Law:~~

~~1.—First offense: \$15.~~

~~2.—Second offense: \$25.~~

~~3.—Third offense: \$30.~~

~~4.—Fourth offense: \$50.~~

~~5.—If there has been no subsequent violation within one calendar year the violation schedule shall begin again with the first offense upon another violation.~~

~~C.—Dog Bite~~

~~1.—First offense: \$15.~~

~~2.—Second offense: \$25.~~

~~3.—Third offense: \$30.~~

~~4.—If there has been no subsequent violation within one calendar year the violation schedule shall begin again with the first offense upon another violation.~~

~~D.—Dog found in school yard: \$10.~~

~~E.—Failure to comply with order of restraint: \$25.~~

~~F.—Failure to comply with notice to kill or confine: \$25.~~

~~G.—Failure to vaccinate dogs against rabies: \$25.~~

issued for the purpose by the Town Clerk. No person shall own or keep in the Town any dog which by biting, barking or howling, or in any other manner disturbs the peace and quiet of any neighborhood or endangers the safety of any persons. **An annual dog license shall be valid from January 1 to December 31**^{[SPR10][SPR11]}. ~~Dog license period will be from January 1 to December 31, of each year.~~

§11-5. Confinement of dogs during heat.

If the Dog Officer determines that a dog in its oestrus cycle (in heat) is attracting other dogs and such attraction is causing damage or disturbance to any neighborhood, the Dog Officer shall order in writing **that** the owner or keeper of such dog ~~to~~ restrain the dog for the duration of its oestrus cycle. If the Dog Officer determines that such owner or keeper is not complying with such order, the Dog Officer shall impound said dog for the duration of its oestrus cycle and the owner shall pay the current boarding fee as allowed under Chapter 140 Section 151A for each day the dog is held in the pound.

§11-6. Violations and penalties; Fees.

Whoever violated the foregoing provisions of this ~~Chapter article~~ shall be liable to a fine **of not more than \$50**^[SPR12], in accordance with Massachusetts General Laws, Chapter 140, Section 173A. **A schedule of all current fines and fees shall be established pursuant to MGL c.40 §22F and shall be held on file with the Town Clerk.**

§11-7. Pit bull terriers.

- A. No person shall keep or maintain, within the boundary limits of the Town of Abington, the breed of dogs known as American Staffordshire Terrier, Stafford Pit Bull Terrier, or

banned within the limits of the Town of Abington.

- C. Any person who violated this Bylaw shall be subject to a fine of not more than \$50 for each offense, and the said dog shall be banned **from within** the limits of the Town of Abington. ~~Each subsequent day of violation shall be considered a separate offense under this Bylaw.~~[\[SPR13\]](#)

§11-8. Kennels.

- A. Any person maintaining a kennel shall have a kennel license.
- B. Any owner or keeper of four or more dogs, three months of age or over, shall obtain a kennel license upon submission of a written application **to the Town Clerk** with the prior approval from the Animal Control Department and the Zoning Board of **Appeals.** ~~to the Town Clerk.~~ The kennel license shall be on a prescribed form and shall specify the name of the owner, the name of the kennel, the name of the keeper, and the location of such kennel. Such license shall specify the maximum number of dogs to be kept on the premises at any one time. **Prior to approving any application, the Animal Control Department shall deliver notice of said kennel application by first class mail to all owners of property situated within 300**[\[SPR14\]](#) **feet of the boundaries of the proposed kennel property, in accordance with a certified abutters list issued for said purpose by the Board of Assessors. All costs of said notice shall be paid by the applicant, and said notice shall inform the abutters of their right to submit written comments about the proposed kennel within ten (10) days of its**

said decision to the Board of Selectmen for independent review. [\[SPR15\]](#)

- C. The fees for each classification of kennel license shall be **established pursuant to MGL c.40 §22F and held on file with the Town Clerk.** ~~as follows:~~
- ~~1. Kennel license for up to four dogs: \$50.~~
 - ~~2. Kennel license for five to 10 dogs: \$80.~~
 - ~~3. Kennel license for 11 to 25 dogs: \$150.~~
- D. License period includes January 1 to December 31, both dates inclusive.
- E. A kennel license shall be **required in addition to** ~~in lieu of~~ any other license ~~upon a variance granted by the Zoning Board,~~ required for any dog which may be kept in such kennel for any portion of the period for which the license is issued. The owner or keeper of such kennel shall renew the license prior to the commencement of each succeeding license period.
- F. While at large, each dog in a kennel shall wear a collar or harness to which shall be securely attached a tag upon which shall appear the number of the kennel license and the year of issuance and the name of the Town.
- G. A veterinary hospital shall not be considered a kennel unless it contains an area for the grooming or selling of dogs, or for the boarding of dogs other than medical or surgical purposes, in which case it shall apply in writing to the Town Clerk

and if in their judgment the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, shall by order revoke or suspend said kennel license.

- I. In the case of suspension of said licenses, the Board of Selectmen may reinstate such license and impose conditions and regulations upon the operation of said kennel **after holding a public hearing. Notice of said public hearing shall be mailed at least seven days prior to the hearing by first class mail to all owners of property situated within 100 feet of the boundaries of the kennel property**[\[SPR16\]](#).
- J. All kennels shall be limited to the number of dogs that the kennel license states **are** to be maintained on said premises. ~~It shall be a violation of this article to have any dogs on said premises over and above said number.~~[\[SPR17\]](#)
- K. In addition to all other sums due and owing for any license fee hereunder, a person who applies for a license hereunder shall be obligated to pay all prior amounts of license fees determined to be due and owing by the Town Clerk. ~~pursuant to this article, for past periods in which said person was obligated to obtain license. It shall be a violation of this article to fail to pay any sum due hereunder this remedy shall be cumulative.~~[\[SPR18\]](#)
- L. Violations of ~~§11-7, Kennels,~~ **this bylaw** shall ~~be incur~~ the following fines;

~~abutters will have one week to contact the Animal Control Officers in writing about said kennel or kennels. If needed there will be an open hearing to all the abutters and the kennel owner or keepers of the property.~~ [\[SPR19\]](#)

§11-9. Animal waste.

- A. The owner **or custodian** of every dog **or animal** [\[SPR20\]](#) shall be responsible for any fecal matter deposited by the ~~owner's~~ animal(s) on public walks, **streets**, recreation areas or private property of another.
- B. The owner **or custodian of an animal** ~~or person(s) who posses or controls the dog~~ when appearing with the **animal dog** on any public walk, street, recreation area, or private property shall posses the means of removal of any fecal matter left by such **animal dog**.
- C. For purposes of this regulation, the means of removal shall include any tool, implement, or other device carried for the purpose of picking up and containing such fecal matter. Disposal shall be accomplished by transporting such fecal matter to a place suitable and regularly reserved for the disposal of human fecal matter, specifically reserved for disposal of **animal dog** fecal matter or otherwise designated as appropriate by the Board of Health.
- D. Any owner or person in control of any **animal dog** who **fails** ~~fails~~ to comply with Subsections A, B, or C of this section

ARTICLE I, Terms of Office

§17-1. Term to be specified at creation; default term.

The term of office for a member of any committee appointed by the Town Meeting, **the Town Manager**, the Board of Selectmen, or the Moderator shall be specified at the time of the creation of the committee, and if no such term is specified the term of office shall be three years.

ARTICLE II, Organization

§17-2. Reorganization by elected officials.

Elected officials shall reorganize their respective board, committee, commission, council or authority **on or before May 15 of each year, or at the next regularly scheduled meeting after the Annual Town Election**^[SPR21] ~~on or before May 1, or at the next regularly scheduled meeting after May 1 of each year following the Annual Town Election.~~ The present **chairperson** ~~chairman~~ of the board, committee, commission, council or authority shall step down and the secretary or senior member shall take nominations from the floor for **chairperson.** ~~chairman~~. All members of the board, committee, commission, council or authority, ~~with the exception of the chairman,~~^[SPR22] may nominate candidates for **chairperson.** ~~chairman~~. All members, ~~including the current chairman,~~ may vote on all nominations for officers of their respective board, committee, commission, council or authority. **The Town Manager** ~~The Board of~~

shall reorganize their respective board, committee, commission, council or authority **on or before May 15 of each year, or at the next regularly scheduled meeting after the Annual Town Election**[\[SPR24\]](#). ~~on or before May 1, or at the next regularly scheduled meeting after May 1 of each year following the Annual Town Election.~~ The present ~~chairperson~~ **chairman** of the board, committee, commission, council or authority shall step down and the secretary or senior member shall take nominations from the floor for ~~chairperson.~~ **chairman**. All members of the board, committee, commission, council, or authority, ~~with the exception of the chairman,~~ may nominate candidates for ~~chairperson.~~ **chairman**. All members, ~~including the current chairman,~~ may vote on all nominations for officers of their respective board, committee, commission, council or authority. **The Town Manager** ~~The Board of Selectmen~~ and the Town Clerk shall be notified in writing of the newly organized board, committee, commission, council or authority no later than **June 15** ~~May 20~~ of the same year.

ARTICLE III, Public Hearings

§17-4. Minimum notice requirements. ~~Advertising required.~~

All appointed and elected boards, committees, and commissions required by either state statute or internal rules to hold a public hearing on any matter within their jurisdiction shall advertise said public hearing **by posting a notice of said hearing at the Town Offices, and if specifically required,** as a display advertisement within the required newspaper(s) [\[SPR25\]](#). **Public hearing notices shall also be posted on the Town website whenever feasible as an additional means of notification to the general public, but the failure to post any notice on the Town website as required by these General Bvlaws shall not be deemed to violate**

§25-1. Display of numbers.

At the time of the sale, rental, **new occupancy** or transfer of any **building** ~~dwelling house~~ in the Town, numbers **representing the address of such building and** assigned to such ~~dwelling houses~~ **building** by the Assessors shall be affixed to such building in such a manner that they are **clearly** visible from the **nearest street and/or driveway entrance which provides access to such building.** ~~from the public way.~~ Said numbers shall be no less than 4" in height and shall be of a color in direct contrast to the surface to which it is attached. In addition to affixing numbers on the building, a building which is not clearly visible from the street or the driveway entrance, whether due to distance, topography, vegetation or other obstruction, may also be required by the Fire Department to affix its assigned numbers on a sign or other marker of a size and design acceptable by the Fire Department, which shall be erected in a more visible area along the public way as determined by the Fire Department. Nothing in this section shall prohibit a property owner from voluntarily erecting or affixing building numbers on a sign or marker in a location more visible to the public, so long as said sign or marker conforms to the sign bylaws and zoning bylaws of the Town. [\[SPR27\]](#)[\[SPR28\]](#)

[See MGL Ch. 148 §59]

§25-2. Verification by Fire Department.

No sale, rental, **new occupancy**, or transfer of a **building** ~~such dwelling house~~ shall take place until the Fire Department verifies that such numbers

~~§29-1. Installation required upon sale of property.~~

~~-
Upon the sale of property the installation of carbon monoxide detectors shall be required.~~

CHAPTER 35, CONDOMINIUM CONVERSIONS

GENERAL REFERENCES

Investigation of land use complaints – See Ch. 98, Art. I.

Zoning – See Ch. 175.

§35-1. Declaration of emergency.

The Town of Abington, acting by and through its Town Meeting, finds and declares that a serious public emergency exists within the Town with respect to the availability and affordability of rental housing to citizens of said Town, particularly to elderly and handicapped persons and to families of low and moderate income; that this emergency results from the aggravated local impact of factors set forth in Chapter 527 of the Acts of 1983, most particularly from limited rental housing development, prolonged increases in sales and rental housing costs exceeding increases in personal income, the increased pressures on the Town's housing stock from the metropolitan housing market and the conversion of existing rental housing to more expensive condominiums or cooperative sales housing; that this rental housing shortage generates serious threats to the public health, safety, and general welfare of the citizens of the Town; that increased protection of the present tenants of rental housing and of future occupants of converted units, requires local action including establishment of provisions protecting a greater portion of the rental housing stock, extending the effective conversion notice period. lessening tenant

- A. To provide the community with the ability to oversee and regulate the conversion of property for use as condominium or cooperative housing.
- B. To assure compliance with state and local regulations for the construction and physical features of buildings which are to be used for condominiums.
- C. To require landlords who seek to convert their rental property into condominium, cooperative, or other form of non-rental property to give their tenants a reasonable period of notice before evicting them in furtherance of the conversion. Such prior notice will provide the potentially displaced tenants with sufficient time to examine the housing market, evaluate available housing alternatives, formulate future housing plans, secure any necessary financing and decided whether to acquire the housing accommodations being converted or to relocate.

§35-3. Definitions.

APPLICANT – A person who records, or proposes to record, the condominium instruments or on whose behalf the condominium instruments are recorded, thereby subjecting the property to condominium ownership, and includes successors or persons who come to stand in the some relation to the condominium development as all applicants.

BOARD – The Planning Board of the Town of Abington.

eviction of a tenant by a landlord or any agent thereof for the purpose of removing such tenant from a housing accommodation in connection with the initial sale and transfer of legal title to that housing accommodation to a prospective purchaser as a condominium unit, cooperative or similar form of ownership, or, and eviction of a tenant by any other person who has purchases a housing accommodation when the tenant whose eviction is sought was a residents of that housing accommodation as a condominium unit, cooperative or unit held in a similar form of ownership. A conversion eviction shall not include an eviction by reason of the tenants; substantial violations of the terms of the tenancy.

CONDOMINIUM UNIT – A unit of a condominium as that is defined in Chapter 183A of the Massachusetts General Laws or any successor statute with respect to condominiums (the “condominium statute”).

COOPERATIVE UNIT – A unit in a housing cooperative as set forth in Massachusetts General Laws, Chapter 157.

ELDERLY TENANT – A tenant who is a person or group of persons residing in the same housing accommodation any of who has reached the age of 60 years or over as of the date of receipt of the notice provided for hereunder.

HANDICAPPED PERSON – A person as defined in Sections 3(20) of the U.S. Housing Act of 1937 as amended by the Housing and Community Development Act of 1974.

HOUSING ACCOMMODATION – Any building, structure, or part thereof or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes containing three

controls, or customarily accepts rent on behalf of the landlord.

LOW AND MODERATE INCOME HOUSING – Households whose total income for the previous year was equal to or less than the qualification income for the Section 8 housing Assistance Program as designated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1927 as amended by the Housing and Community Development Act of 1974 and calculated pursuant to such regulations.

RENTAL HOUSING AGREEMENT – An agreement, verbal, written or implied between a landlord and a tenant for use or occupancy of a housing accommodation or for housing services.

TENANT – Any person entitled under the terms of a rental housing agreement to the use and occupancy of any housing accommodation or for housing services.

UNJUSTIFIABLE RENT INCREASE – Any rent increase exceeding that allowed by consumer price index, 10% maximum, and Tax Escalation Clause provisions of the Section 4(3) of Chapter 527 of the Acts of 1983.

§35-4. Applicability.

- A. This Bylaw shall be applicable to all multi-family dwellings located within the Town of Abington which contain three or more dwelling units which are proposed to be converted to condominium or cooperative ownership subsequent to the effective date of this Bylaw.

- A. A condominium or cooperative conversion issued by the Planning Board is required for conversion of existing structures to condominium or cooperative ownership, and such permits shall be required prior to the filing of a master deed pursuant to the Massachusetts General Laws, Chapter 183A.
- B. Anyone wishing to apply for a condominium or cooperative conversion permit shall give notice to the tenants according to this Bylaw and Chapter 527 of the Acts of 1983, and then shall file an application with the Town Clerk for transmittal to the Planning Board.
1. Any application for a condominium or cooperative conversion permit shall be accompanied by a filing fee under the fee schedule established by the Planning Board and approved by the Board of Selectmen, and by copies of notices of intent and other items required by the Planning Board.
 2. Within sixty (60) days of the receipt of a properly executed application at a regularly scheduled meeting of the Planning Board, the Planning Board shall hold a public hearing. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in the newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of said hearing. Notice of said hearing shall also be sent by mail postage prepaid to the

4. Condominium or cooperative conversion permits can only be granted by at least four members of the Planning Board voting in the affirmative.
 5. A copy of the attested condominium or cooperative conversion permit shall be a part of and attached to the master deed recorded pursuant to Massachusetts General Laws, Chapter 183A. The applicant shall notify the Town Clerk within 10 days of recording a master deed.
 6. Permits shall expire if a master deed is not filed within 12 months of permit issuance, and an eighteen month period shall elapse before a subsequent permit application may be filed.
- C. The Planning Board must approve any such application if it finds that the applicant has fully complied with all the conditions and required of the Bylaw.
- D. Permits may be revoked upon finding (at a hearing advertised as per Chapter 41, Section 81T) that the applicant has violated tenants' rights during the twelve to twenty-four month periods described in §35-6 below.

§35-6. Tenant rights.

- A. An applicant who intends to convert a rental building to a condominium or cooperative ownership is required to give each tenant in such building notice of this intention. Such notice must precede application for a condominium or cooperative conversion

- C. The notice of intention to convert must set forth generally the rights of a tenant under this Bylaw and must include a copy of this Bylaw as an attachment. The notice shall be mailed postage prepaid by registered mail, return receipt requested, to the tenant at the unit or any other mailing address provided by the tenant.
- D. The Board shall have the right to deny an applicant a condominium or cooperative conversion permit if sufficient testimony is presented indicating that the tenants' right under §35-6A to G of this Bylaw were violated prior to the application's filing date. The Board shall also have the right to revoke a permit if sufficient testimony at a subsequent hearing called upon petition of five tenants is presented to indicate that tenants' rights have been violated during the applicable to twelve or twenty-four month periods. The Board shall exercise these rights when it determines that the intent of this Bylaw has been so compromised.
- E. No tenant may be given notice by the applicant to vacate the premises within the applicable twelve- or twenty-four-month period provided in §35-6A above, except by reason of substantial violations of the terms of the tenancy.
- F. Any tenant under a lease entered into a subsequent to the effective date of this Bylaw shall have the right at any time after receipt of a notice to convert pursuant to this Bylaw, to terminate the lease upon notice. Such termination shall be without penalty or other termination charge to the tenant.

of said tenants' right to purchase pursuant to 5.4(e) of Chapter 527 of the Acts of 1983. The tenants' right to first purchase expires 90 days after receipt of the applicant's offer to sell.

- H. The tenant in a conversion condominium or cooperative shall not unreasonably withhold consent to the applicant to enter the unit in order to inspect the premises, obtain data or show the unit to prospective or actual workers or purchasers. The applicant shall give the tenant at least two days' notice of his intent and may enter only at reasonable times.
- I. It shall be unlawful for any person to engage in any act of harassment against a tenant which is designed to, or is likely to result in the termination of the tenancy by the tenant. Conduct which shall be considered harassment shall include, but not be limited to, the following: failure of the landowner to make repairs in a timely and professional manner; imposition by the landowner of unjustifiable increases in the rental price of a unit; failure of the landowner to provide the tenant with essential services; verbal harassment and/or threats by the landowner against the tenant.

§35-7. Enforcement.

Any person violating any provision of this Bylaw, upon conviction thereof, shall be fined not more than \$25 for each offense. Each one day period that willful violation continues shall constitute a separate offense.

§35-8. Effect on other regulations.

This Bylaw shall not interfere with or annul any Bylaw, rule, regulation or

any such provision or its application to any person or circumstance, the invalidity shall not affect the validity of any other provision or application.

§35-10. Safety.

- A. Any multi-family building which is converted to condominium or cooperative conversion shall be brought up to current Health and Building Codes wherever reasonably possible. The Board shall apply this section in consultation with the Building Inspector and Health Agent after considering testimony of the applicant or his engineers.
- B. Any multi-family building which is converted to condominium or cooperative ownership shall meet the fire safety requirements of 780 CMR, Articles 6, 9 and 12 or of any fire safety related code hereinafter adopted by the Commonwealth of Massachusetts or the Town of Abington.
- C. Certification of final approval by the Planning Board shall be deemed to be the signing of the permit only after all involved inspectors have signed same.

CHAPTER 40, COUNCIL ON AGING

GENERAL REFERENCES

Boards, committees and commissions – See Ch. 17.

§40-1. Establishment; membership; terms.

There is hereby established a Council on Aging consisting of from seven

The duties of said Council on Aging shall be to:

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

§40-3. State and federal agencies and laws.

Said Council on Aging shall cooperate with the Commonwealth of Massachusetts Commission on Aging and shall be cognizant of all state and federal legislation concerning funding, information exchange, and program planning which exists for better community programming for the elderly.

§40-4. Reports.

Said Council on Aging shall give an annual report to the Board Selectmen with a copy of that report directed to the Commonwealth of Massachusetts Commission on Aging.

the Commonwealth, shall be made and executed by the Town Treasurer.

§44-2. Sale of real estate; advertisement.

**Any real estate which has been acquired by the Town for non-payment of taxes may be sold by the Treasurer, with the prior assent of the Board of Selectmen, and the Treasurer shall be empowered to execute, acknowledge, and deliver sufficient deeds therefore. Notice of such sale shall be given by posting a notice at the Town Offices, posting a notice on the Town website, and by publication in two (2) newspapers of general circulation in the Town once in each of two successive weeks, the posting of said notice and the first publication to be not less than 14 days prior to the day of the scheduled sale.[\[SPR31\]](#)
[See MGL Ch. 60 §40 *et seq.*]**

~~Any real estate which has been acquired by the Town for non-payment of taxes may be sold by the Treasurer, after advertisement once a week for three consecutive weeks in the Brockton Enterprise and the Patriot Ledger, or their successors, with the assent of the Selectmen and the Treasurer shall be empowered to execute, acknowledge, and deliver and sufficient deeds therefore.~~

CHAPTER 49, DUMPING

GENERAL REFERENCES

General penalty – See Ch. 1, Art. I

Property maintenance – See Ch. 122.

Solid waste – See Ch. 138.

ARTICLE I, Landfill

§49-2. Planning Board Rules.

This article may be superseded by the rules and regulations of the Planning Board.

ARTICLE II, Control of Dump and Compost Site

§49-3. Control by Board of Health; other dumps prohibited.

The Town Dump and compost site shall be under the control of the Board of Health and no person shall maintain a dump on any other premises in the Town.

CHAPTER 53, ELECTIONS

ARTICLE I, Police Presence

§53-1. Posting at polling places.

The Selectmen shall have such police officers as necessary posted at all polling places for any election to enforce the laws relative to the election process.

CHAPTER 59, FEES

GENERAL REFERENCES

Failure to pay taxes – See Ch. 102, Art I

ARTICLE I, Payment into Treasury

Clerk[\[SPR33\]](#).

ARTICLE II, Town Clerk and Sealer of Weights and Measures Fees

§59-2. Town Clerk fees.

The schedule of fees to be charged by the Town Clerk under the provisions of Section 34 of Chapter 262 of the Massachusetts General Laws shall be those established by the Town Clerk under the provisions of Section 22F of Chapter 40[\[SPR34\]](#) of the Massachusetts General Laws. A copy of the fees so adopted shall be posted and shall be available in the office of the Town Clerk.

§59-3. Sealer of Weights and Measures fees.

The schedule of fees to be charged by the Sealer of Weights and Measurers under the provisions of Section 56 of Chapter 98 of the Massachusetts General Laws shall be those established by the Sealer of the Weights and Measurers, subject to approval by the Board of Selectmen, under the provisions of Section 22F of Chapter 40[\[SPR35\]](#) of the Massachusetts General Laws. A copy of the fees so adopted shall be posted and shall be available in the office of the Town Clerk.

CHAPTER 63, FENCES

GENERAL REFERENCES

General penalty – See Ch. 1, Art. I

Property maintenance – See Ch. 122

Zoning – See Ch. 175.

property owner to remedy the situation. The Fence Viewer may set a deadline for the completion of such work. **If a fence is not repaired or removed pursuant to a determination of the Fence Viewer, the delinquent property owner shall be subject to all remedies and costs authorized by MGL Chapter 49^[SPR36].** ~~In essence such a fence will be considered deficient as per Massachusetts General Laws Chapter 49, Sections 4 and 5, and shall be dealt with accordingly.~~

§63-2. Responsibility of property owner for erecting fence; deadline for completion of work.

Should the lack of a lawful fence create a clear and present danger to the general public, it shall be the responsibility of the property owner to erect a lawful fence or otherwise remedy the situation. The Fence Viewer may set a deadline for the completion of such work. The presence of, or lack of, clear and present danger to the general public shall be determined by a majority decision of the Fence Viewer, Fire Chief and Police Chief.

§63-3. Powers of Fence Viewer.

The Fence Viewer shall be allowed to take any necessary actions in order to accomplish the duties of the Fence Viewer in a safe and timely manner.

ARTICLE II, Electrical Fences

§63-4. Conditions and specifications.

Low-voltage electrical “security” fencing with a maximum of 12 volts, primary voltage, may be permitted within areas of Abington zoned for non-residential use; and in the event a person, firm, corporation, or other

electrical fence or wall, that fence/wall must conform with all existing regulations;

- C. The surrounding non-electrical fence/wall shall be separated from the electrical fence by at least six inches at the closest point between the electrical fence and the non-electrical surrounding fence/wall.
- D. An electrical fence shall be equipped with an emergency “shut off” in a location readily accessible to emergency personnel;
- E. An electrical fence shall be identified as such at least every 30 feet.

§63-5. Livestock fencing.

The above regulation (§63-4) shall not apply to electrical livestock fencing, which may be permitted within all areas of Abington, under the following conditions;

- A. An electrical livestock fence shall be identified as such at least every 60 feet;
- B. An electrical livestock fence must comply with all other fence regulations.

§63-6. Fee.

The Fence Viewer shall be entitled to assess a fee for his/her services

§67-1. Appointment; terms; eligibility.

A Finance Committee of nine voters of the Town shall be appointed by the Moderator **to fill staggered three-year terms** [\[SPR38\]](#), ~~three for three years, three for two years, and three for one year, and three each year thereafter for a three-year term.~~ No elective or appointive Town officer or Town employee shall be eligible to serve on said Committee. If any member announces his candidacy for an elective office, his position shall be deemed to be vacant and shall be filled as herein provided.

§67-2. Organization; vacancies.

The ~~said~~ **Finance** Committee shall meet for purposes of organization each year within **75 days after the start of each fiscal year** [\[SPR39\]](#). ~~30 days after notice of the appointment of new members.~~ It shall choose its own officers, and it shall cause to be kept a true record of its proceedings. **It may appoint sub-committees and liaisons from its own membership** [\[SPR40\]](#). It shall notify the **Town Manager**, Selectmen, Town Clerk, and Moderator in writing of its organization. Vacancies shall be filled promptly by the Moderator for the unexpired term of the member whose appointment is vacated.

§67-3. Access to books, **contracts**, and accounts; ~~subcommittees.~~

The ~~said~~ **Finance** Committee shall have the authority to **inspect and** have access to all books, accounts, **contracts and documents** ~~and management of any department or office of the Town.~~, ~~and the books and accounts of all departments and officers of the Town shall be open to inspection of the~~

§67-4. Consideration of ~~questions~~ **articles**; recommendations.

~~It shall be the duty of the Finance Committee to consider at an appropriate time prior to the Annual Town Meeting and or any Special Town Meeting any and all municipal questions and those involving the expenditure of money, creation of debt, revenue of the Town and disposition of Town owned property included within the articles of any warrant for a Town Meeting. The Committee shall make such recommendations and final report to be printed and available to the public 10 days before any Town Meeting. All recommendations of the Committee to the Town shall be recommendations of the majority of the entire Committee[SPR42], but this shall not be construed to prevent recommendations by a minority.~~

The Finance Committee shall report its recommendations in writing on every article contained in a town meeting warrant at least ten (10) days prior to a scheduled town meeting. Said recommendations shall include a summary of reasons for each recommendation, and the report shall be made available to the public at the Town Clerk's office and on the Town's website[SPR43].

§67-5. Preparations of budget estimates.

~~The various Town officers, department heads, boards, and committees charged with the expenditures of the Town's money shall prepare annually details budget estimates of the funds considered necessary to perform the Town's business entrusted to them for the ensuing year on forms developed and furnished by the Executive Secretary. The Executive Secretary shall review with an obtain approval from the Finance Committee of the forms to be used by the Finance Committee. Likewise estimates shall be prepared by each department of any revenues to be~~

~~Finance Committee whenever developed or updated. Each budget or revenue estimate for the ensuing year shall contain explanatory statements as to changes from the amount appropriated or revenues estimated for the same purpose in the preceding year and explanations of new budgets or revenue items.~~

The Town Manager shall annually prepare a detailed budget for the ensuing year in accordance with the requirements of the Charter. A draft budget shall be submitted to the Finance Committee on or before January 15th of each year in preparation for the Annual Town Meeting. The Finance Committee and the Town Manager shall coordinate the presentation and format of final budget information for each town meeting[\[SPR44\]](#).

§67-6. Requests for funds after Town Meeting.

~~Town officers, department heads, boards, and committees when requesting funds from the Finance Committee, subsequent to the Annual Town Meeting, shall submit such requests on forms furnished by the Finance Committee together with explanatory statements in sufficient detail to justify the request.~~

When requesting a Reserve Fund Transfer from the Finance Committee subsequent to the Annual Town Meeting, Town officers, department heads, boards, and committees shall submit such requests on forms furnished by the Finance Committee together with explanatory statements in sufficient detail to justify the request[\[SPR45\]](#).

§67-7. Inventory of Town property; inventory forms; disposal of property.

Accompanying such inventory list there shall be shown separately a list of property declared to be of no further use and surplus to its needs. Before disposal of surplus property by sale, transfer to another department, destruction, or otherwise, such action shall be approved by the Board of Selectmen. Report of the action taken by such Board shall be furnished the Town Accountant and Finance Committee. Inventory sheets and surplus property lists shall be prepared in such form and detail as the Town Accountant ~~with the approval of the Finance Committee~~ may prescribe.

§67-8. Annual **internal audit.** ~~independent inventory.~~

The Board of Selectmen shall within each calendar year, without notice, cause to be made an ~~independent~~ **internal audit of the town's** inventory by **the Town's Internal Auditor** ~~competent personnel~~ of all property **(excluding office furniture and general office supplies with a total value of less than \$5,000)** [\[SPR47\]](#) in the possession or control of each Town officer, department head, board or committee and such **audits** ~~inventories~~ shall be filed with the ~~Executive Secretary~~ **Town Manager** and Finance Committee. ~~and shall be available for review by the public~~ [\[SPR48\]](#).

~~§67-9. Meeting place.~~ [\[SPR49\]](#)

~~The Board of Selectman with the approval of the Chairman of the Finance Committee shall provide a suitable place in which the Finance Committee may hold its various meetings and conduct its business.~~

~~§67-10. Open meetings.~~ [\[SPR50\]](#)

~~Articles for the Annual Town Meeting warrant, except for Articles I (wage classification) II (budgets), shall be inserted in the warrant in the order in which said articles are received by the Board of Selectmen. Articles for any Special Town Meeting warrant shall be inserted in the warrant in the order in which said articles are received by the Board of Selectmen. Articles when received by the Board of Selectmen, unless inserted by a Town department head, board, or committee, shall be referred to the Town Clerk and Registrar of Voters for checking as to correctness of signatures.~~

CHAPTER 71, FIREARMS AND EXPLOSIVES

GENERAL REFERENCES

General penalty – See Ch 1, Art I

Explosives and flammable material – See Ch 75, Art I

Underground storage of flammable fluids – See Ch 75, Art II

§71-1. Permission to discharge required; exceptions.

No person shall fire or discharge any firearm or explosive of any kind within the limits of any highway, park or other public property, except with a permit by the Board of Selectmen; or on any private property except with the consent of the owner or legal occupant thereof; provided, however, that this Bylaw shall not apply to the lawful defense of life or property ~~nor not~~ [\[SPR52\]](#) to any law enforcement officer acting in the discharge of his duties.

CHAPTER 75, FIRE PREVENTION

GENERAL REFERENCES

§75-1. Fees.

The Fee for a license for keeping, storage, or manufacture or sale of explosives and inflammable material issued by the local licensing authority under the provisions of

MGL Ch. 148 §13 shall be established from time to time by the Fire Chief, pursuant to MGL Ch. 40 §21F. A schedule of said fees shall be kept on file at the Fire Department and with the Town Clerk^[SPR53].

~~Chapter 148, Section 13 of the Massachusetts General Laws, shall be as follows:~~

Inflammable Fluids	License	Certificate of Registration
0 – 1,000 gals.	\$50	\$35
1,000 – 5,000 gals.	\$60	
\$40		
5,000 – 10,000 gals.	\$80	
\$50		
10,000 – 30,000 gals.	\$100	
\$60		
30,000 – 100,000 gals.	\$120	
–\$70		
Over 100,000 gals	\$170	
\$95		

ARTICLE II, Underground Storage of Flammable Fluids

§75-2. Testing Schedule.

Any flammable liquid or gasoline storage tank installed below the ground

- C. Every two years up to 30 years.
- D. After 30 years, annually unless the Fire Chief determines that conditions indicate more frequent testing be done.

§75-3. Supervision of testing; removal of leaking tanks.

Such testing shall be done under the supervision of the Fire Chief using the Kent/Moore Test Method or equal. The tank or tanks shall be removed by the owner, at their expense, if it fails the test, or at any time when it becomes a hazard because of leakage or otherwise in the opinion of the Fire Chief.

§75-4. Town held harmless; obligations of owners upon discontinuance.

The fact of installation, maintenance and/or usage of such storage tanks under a license granted by the Board of Selectmen shall constitute an agreement on the part of the owner or owners of such tanks to save and hold harmless the Town of Abington from any and all reasonable and necessary expenses of removing said tanks upon expiration of the license, or at any time when the same shall be required in the opinion of the Fire Chief. The fact of installation, maintenance and/or usage of such storage tanks under a license granted by the Board of Selectmen shall constitute on the part of the owners an obligation to remove **such tanks** at the cost of the owners ~~of such tanks~~ upon the discontinuance and/or abandonment of that business necessitating or using such tanks, whether or not such discontinuance and/or abandonment be less than the five-year limitation above mentioned. Removal of such tanks under the provisions herein shall be within 180 days of the date of discontinuance or abandonment.

§75-5. Jurisdiction over leakages; notification information

- mail, notification of such leakage to all owners of land duly licensed for such storage of gasoline or other flammable or injurious material in the area defined as the source of such leakage and the particular main, line or conduit affected;
- B. The defined area within which the source of leakage is located, if ascertainable;
 - C. A demand upon the owners of such licensed land within the defined area to take necessary action to test and confirm the absence of any such leakage from storage tanks upon the owners' particular land;
 - D. A reasonable time limit within which to effect such tests, not to exceed 72 hours;
 - E. Notification of the intention of the Town to make such reasonable tests as are requested upon the failure of the owner to take action;
 - F. The amount of charge for such tests in the event the owner fails to comply with the demand

§75-6. Installation and usage constitutes agreement.

The fact of the installation, maintenance and/or usage of such storage tanks under the license of the Board of Selectmen, with the actual or implied consent of the owner of such land, shall constitute an agreement on the part of the owner of such licensed land to take such action as constitute an agreement on the part of the owner of such licensed land to take such action as requested above to discover the presence or absence of any such leakage; and shall further constitute an agreement on the part of the owner to hold and save harmless the Town from any reasonable and necessary expenditures incurred by the Town in testing the licensed land upon failure

CHAPTER 81, GARAGES, COMMERCIAL

GENERAL REFERENCES

General Penalty – See Ch 1, Art. 1.

Storage of explosives – See Ch. 75.

Zoning – See Ch. 175.

§81-1. License required.

Any person who maintains a commercial garage with the facilities for the repair, alteration or towing of motor vehicles including an autobody shop, so-called, shall first obtain a license therefore from the Board of Selectmen.

§81-2. License fee.

Fee for the license shall be fixed from time to time by the Board of Selectmen.

§81-3. Expiration; revocation; hearing.

Licenses issued hereunder shall expire June 30 following the date of issue and may be revoked at any time, after a hearing, by the Board of Selectmen.

CHAPTER 84, GAS INSTALLATIONS

GENERAL REFERENCES

General penalty - See Ch. 1, Art. I

Storage of flammable liquids – See Ch. 75

the Massachusetts Gas Regulatory Board.

§84-2. Permit to install gas equipment required.

No person, firm or corporation shall install any gas pipes, equipment, appliances or systems in the Town without first obtaining a permit.

§84-3. Permit fees.

The Board of Health shall determine such fees as may be payable to the Town for such gas installation permits.

CHAPTER 89, HISTORICAL COMMISSION

GENERAL REFERENCES

Zoning – See Ch. 175

§89-1. Membership; terms.

The Historical Commission shall be comprised of five members, **who must be** residents of the Town. **The members shall be appointed by the Board of Selectmen to fill staggered three-year terms**[\[SPR55\]](#). ~~The members shall initially be appointed by the Selectmen, one member for one year, two members for two years, two members for three years. Each member shall be appointed for a three-year term thereafter.~~ They shall survey, research, and record the important historic places in the Town and shall, as mandated by the state law, see to preserve, protect, and develop these historic assets.

89.2 Authority of Commission

general, aware of its importance, a copy of its record in the Inventory shall be forwarded to the Selectmen, together with a covering statement by the Commission. If the Selectmen concur with the Commission's decision, they shall declare the place to be of especial value to the Town, and shall have a copy filed with the Town Clerk, and shall also forward copies to the Abington Planning Board, the Zoning Board of Appeals, and any other Town departments or officers who may be interested and/or make a request. Copies shall also be forwarded to the Old Colony Planning Council and to the owner(s) of private property involved.

§89-3. Urging property owners to include deed designation.

The Historical Commission shall have the right to urge the owner(s) of private property which has been declared an important historic place in the town to so indicate the designation on the instrument of transfer (or deed) if and when the property changes hands.

§89-4. Declassifying properties; procedure.

A declaration that a place has historic importance shall cease to be effective if and when the Historical Commission re-evaluates the place and so advises the Selectmen who shall then withdraw the item from the files of the Town Clerk and other, and a public announcement of the action shall be published in the local newspapers.

§89-5. Severability.

Rejection of any section or part of a section of this Bylaw shall not

§97-1. Authority of Selectmen to license dealers and collectors.

The Selectmen may license suitable persons to be dealers in and keepers of shops for the purpose, sale or barter of junk, old metals or secondhand articles, and may also license suitable persons as junk collectors to collect by purchase or otherwise, junk, old metals and secondhand articles from place to place in the Town.

CHAPTER 98, LAND USE

GENERAL REFERENCES

General penalty -- See Ch. 1, Art. I

Zoning – See Ch. 175

ARTICLE I, Investigation of Complaints

§98-1. Investigation by Selectmen.

Upon the complaint of an abutter, the Selectmen shall investigate the use of adjoining land, which although within the allowed use under the Zoning Bylaws (§175) or Health Regulations is alleged to be conducted in such a manner that it unnecessarily or unreasonably interferes with the use or quiet enjoyment of the complainant's land.

§98-2. Hearing; Order to correct.

If the Selectmen, after such investigation, deem it necessary, they may order a hearing, if as a result of such hearing they find the complaint justified they shall order such corrections in the use of such land as they deem necessary.

CHAPTER 102, LICENSING

ARTICLE I, Failure to Pay Taxes

§102-1. Furnishing of list.

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or pending petition before the Appellate Tax Board.

§102-2. Denial by licensing authority; hearing; issuance of certificate indicating good standing.

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right

renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

§102-3. Issuance of certificate upon compliance with payment agreement.

- Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitation to the license or permit and the validity of said license shall be conditioned upon satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and hearing as required by applicable provisions of law.

§102-4. Waiver.

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of Chapter 268 in the business or activity conducted in or on said property.

§102-5. Non-applicability.

This article shall not apply to the following licenses and permits:

- A. Open burning; Section 13 of Chapter 48
- B. Bicycle permits; Section 11A of Chapter 85
- C. Sale of articles for charitable purposes; Section 33 of Chapter

Chapter 140.

CHAPTER 113, PEACE AND GOOD ORDER

GENERAL REFERENCES

General Penalty – See Ch. 1, Art I.

Consumption of alcoholic beverages in public – See Ch. 7, Art. I.

ARTICLE I, Ball Playing in Street

§113-1. Restrictions.

No person shall play ball, or throw balls, stones, snowballs, or any other missiles within or upon any of the streets or public places of the Town, except places set apart for such purposes.

ARTICLE II, Posting of Advertisements

§113-2. Permission required.

No person shall post, draw, affix or in any way attach any poster, handbill, notice, advertisement or placard, or paint, draw, affix or stamp any letter, notice, advertisement or placard, or paint, draw, affix, or stamp any letter, notice, figure, advertisement or mark upon or into any way, fence, post, tree, building or structure not his own, without the permission of the owner if private property, or of the Selectmen if public property.

ARTICLE III, Injury to Memorials and Gravesites

§113-3. Decoration prohibited.

Any person or persons so injuring, defacing or destroying any building, monument or memorial, or desecrating any grave or gravesite or burial place will be subject to a fine of \$300, plus full restitution for the amount of damages.

ARTICLE IV, Sound Trucks

§113-5. Permit required.

No person shall operate any sound truck or other **similar open air**[\[SPR56\]](#) sound making device in the Town, without a permit from the Selectmen.

ARTICLE V, Public Decency

§113-6. Peeping into Windows[\[SPR57\]](#).

No person, except an officer of the law in the performance of his/her duties, shall enter upon the premises of another or upon any public property for the purpose of peeping into the windows of a house or other building or of spying in any manner upon any person or persons therein.

CHAPTER 117, PEDDLING AND SOLICITING

GENERAL REFERENCES

General Penalty – See Ch. 1, Art I.

Junk dealers – See Ch. 94

ARTICLE I, Peddling and soliciting

begging or soliciting alms or contributions for any person, cause or organization, either on foot or from any animal or vehicles without first having recorded his/her name and address with the Chief of Police and furnished such other information as may be requested of him/her.

§117-2. Issuance of permit

The Chief of Police shall thereupon, if satisfied with the honesty of the applicants, issue a permit for a period not exceeding 12 months, which must be shown on request, and shall state that said person has duly registered and is entitled to go from place to place within the Town for the purpose specified.

ARTICLE II, Hawkers and Peddlers

§117-3. Issuance of licenses by Selectmen; fee.

The Board of Selectmen shall have the authority to grant licenses to all hawkers and all peddlers who are engaged in the sale or barter of any and all types of merchandise including the sale of prepared or unprepared food; said license fee to be established by the Board of Selectmen.

CHAPTER 122, PROPERTY MAINTENANCE

GENERAL REFERENCES

Land use complaint – See Ch. 98, Art I.

Junked vehicles – See Ch. 163

ARTICLE I, Discharge of Offensive Matter Into Streets

No person shall place any dead animal or substance, rubbish or garbage, in **any public or private way of the Town**, ~~such way~~ except for the purpose of immediate removal therefrom.

§122-3. Violations and penalties.

Whoever violates any provision of this Bylaw shall be liable to a penalty of not more than \$1,000 for each violation.

ARTICLE II, Public Safety Hazard Abatement

§122-4. Enforcement officials.

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In order to ensure the public safety and public convenience of the inhabitants of the Town, it shall be the duty of the Fire Chief, Police Chief, Building Inspector and Zoning Enforcement Officer, and Health Agent to require the abatement of any public **health or** safety hazard on public or private property. The Fire Chief, Police Chief, Building Inspector and Zoning Enforcement Officer, and Health Agent shall investigate and issue orders consistent with the General Laws, to order the abatement of the hazard.

§122-5. Failure to abate; filing of complaint.

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Upon failure of the property owner to abate a hazard within a reasonable time after issuance of a written order to do so, as established by the General Laws or by local order, the Board of Selectmen and/or the Board of Health may assess daily fines and shall

~~criminal complaint to force the abatement of the hazard.~~

§122-6. Term defined.

The definitions of a public health or safety hazard will be as defined by the General Laws, Code of Massachusetts Regulations, these Bylaws, and the rules and regulation of the Board of Health.

§122-7. Swimming pool fencing[\[SPR59\]](#).

A. Every outdoor private spa, hot tub and in-ground swimming pool containing more than 24 inches of water in depth[\[SPR60\]](#) **shall be enclosed by a fence or barrier at least five (5) feet in height, having pedestrian access gates which shall open outwards away from the pool and shall be self-closing with a self-latching device.**

B. The fence or barrier required for an outdoor private above-ground swimming pool shall comply with the height requirements of 780 CMR 421.10, as may be amended.

C. Said fences or barriers shall comply with all other provisions of 780 CMR 421.10 and all other applicable provisions of the State Building Code, as may be amended.

D. No more than 24 inches of water may be allowed in any outdoor private spa, hot tub, or swimming pool until the fence or barrier required by this bylaw is properly installed.

E. A spa or hot tub with an approved safety cover shall be exempt

CHAPTER 128, SEWERS

GENERAL REFERENCES

Subdivision of land – See Ch. 200.

ARTICLE I, Connection of Runoff Sources to System

§128-1. Certain Connections prohibited.

No property owner shall allow roof downspouts, foundation drains, sump pumps, areaway drains, or any other sources of surface runoff or groundwater to be connected to a building sewer or other pipe which discharges to the municipal sewer system.

§128-2. Notice to discontinue illegal connection.

Any property owner found to be in violation of this article shall be given written notice by the Board of Sewer Commissioners requiring said property owner to provide proof of discontinuance of said illegal connection within 30 days thereafter, unless further extended by vote of the Board of Sewer Commissioners.

§128-3. Violations and penalties.

Failure to discontinue said illegal connection pursuant to said notice shall cause said property owner to be assessed a fine of \$50 per day until the violation is shown to be removed and proven to be remedied. Said fine shall be added to the property owner's sewer usage bill and shall be subject to the interest and lien penalties of the usage bill.

No person shall remove any soil or loam from the premises or from any land not in public use unless such removal is authorized by permit issued by the Board of Selectmen, except for the continued operation of the same parcel of an existing sand and gravel pit, **and except when incidental to and reasonably required in connection with the construction of a legal or approved use or structure or an approved subdivision**[\[SPR61\]](#).

CHAPTER 138, SOLID WASTE

GENERAL REFERENCES

Dumping – See Ch. 49.

ARTICLE I, Regulation of Facilities

§138-1. Preamble.

General Laws Section 150A, Chapter 111, requires that every person maintaining or operating a solid waste facility shall operate the facility in such manner as will protect public health and safety and the environment. Upon determination by the Board of Health that the operation or maintenance of such a facility results in a threat to public health and safety or the environment the Board shall rescind, suspend, or modify the site assignment following due notice and a public hearing.

§138-2. Purpose.

This article establishes the following procedures in addition to the procedures required by state law and regulation, to protect the rights of the people of Abington to clean air and water guaranteed by Article 97 of the Articles of Amendment to the Massachusetts Constitution.

§138-4. Petition.

Any 10 or more residents of Abington or of any town located within ½ mile of a solid waste facility (an “abutting town”), if any, may petition the Board of Health in writing alleging that said solid waste facility is operating in violation of its site assignment or of any applicable law, regulation, order, or bylaw or that the maintenance or operation of a solid waste facility results or may result in a threat to public health or safety or the environment.

§138-5. Burden of proof.

When an allegation is made that a solid waste facility is in violation of any applicable law, regulation, order, or bylaw or that the maintenance or operation of a solid waste facility results in or may result in a threat to public health or safety or the environment, the burden of proof shall be on the owner or operator of said solid waste facility to prove that the facility is not in violation or that the operation of the facility does not result in a threat to public health, safety, or the environment, as the case may be.

§138-6. Preliminary hearing.

No later than 21 days following receipt of such a petition, the Board of Health shall schedule a preliminary hearing. The purpose of the preliminary hearing shall be to decide whether the Board should schedule a site assignment hearing pursuant to Section 150A of Chapter 111 of the General Laws to consider whether to rescind, suspend, or modify the site assignment of said facility. The preliminary hearing shall be held no later

an abutting town, if any. Said notice shall include the entire text or concise summary of the petition, the date, the time, and place of the preliminary hearing, how residents can participate in the meeting, and where application materials can be reviewed and the deadline for submitting written comments on the petition to the Board of Health. At least 14 days prior to commencement of said preliminary hearing, the Board of Health shall send a copy of said notice of said preliminary hearing by first class mail to all residents and landowners located within one mile of the proposed site, including residents of an abutting town, if any.

§138-8. Hearing procedure.

The preliminary hearing shall be conducted as follows:

- A. The petitioners shall first describe the basis for their petition.
- B. Then, the owner or operator of the affected facility shall be given a reasonable opportunity to respond.
- C. The Board shall then allow public testimony, shall accept written comments for a specific period of time that shall be announced at the preliminary hearing. The hearing shall be conducted as informally as possible, and shall follow the rules of evidence commonly followed in the courts. Any resident of Abington or an abutting town, if any, and of the general public, shall be allowed to present oral or written testimony during the hearing.

§138-9. Written decision.

No later than 30 days following the conclusion of the preliminary hearing, the Board shall render a written decision whether or not to convene a site assignment pursuant to Section 150A, Chapter 111 of the General Laws to

for any reason the remainder of that paragraph and all other paragraphs of this article shall continue in force and effect.

ARTICLE II, Site Selection Procedures

§138-11. Preamble.

This article establishes public participation requirements to improve the public process following the filling of a site assignment application for a new solid waste facility.

§138-12. Purpose.

The purpose of this article is to protect the rights of the people of Abington to clean air and water guaranteed by Article 97 of the Articles of Amendments to the Massachusetts Constitution, and to protect their right to petition government guaranteed by the Massachusetts Constitution, Article 19 of the Declaration of Rights, and by the First Amendment to the United States Constitution.

§138-13. Statutory authority.

This article is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article 89 of the Articles of Amendment, independent of the provisions of Section 15A of Chapter 111 of the General Laws and regulations promulgated thereto.

§138-14. Establishment of procedures.

the applicant shall be invited to give a short presentation and answer questions from attendees.

- B. At least 14 days prior to commencement of said informational meeting, the Board of Health shall require the applicant place a large four-foot by eight-foot sign at the proposed site, on the nearest public way, which states in a clearly readable typeface that “This is a proposed site of a (type of facility) proposed by (name of applicant). An informational meeting on the application will be held (date) (time) at (location). For more information, contact, (name, title, phone number and address of Board of Health contact),” and which shall contain a brief description of the proposed project and where application materials can be reviewed.
- C. At least 14 days prior to commencement of said informational meeting, the Board of Health shall send notice of said meeting, which shall include a brief description of the project, the date, time and location of the meeting, how residents can participate in the meeting, and where application materials can be reviewed, by first class mail to all residents and landowners located within one mile of proposed site, including residents and landowners in an abutting town if the proposed site is within one-half mile of that town (an “abutting town”).
- D. At least 14 days prior to commencement of the informational meeting, the Board of Health shall forward a copy of the application for a site assignment to the Abington Public Library and to the public library in an abutting town, if any, and place a copy on the Internet.

a press release to all newspapers and media outlets which circulation in the town(s).

- F. The Board of Health shall provide for either live public broadcast of the informational meeting on the local cable access channel, or if that is not feasible, for the videotaping of the informational meeting for later broadcast.
- G. The Board of Health may assess upon the applicant the costs for complying with the provisions of this article relative to the informational meeting and providing notice thereof. Said applicant may contest the amount so assessed and may request a hearing before the Board, who may then reconsider the amount of the assessment thereof.

§138-15. Severability.

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

CHAPTER 142, STREETS AND SIDEWALKS

GENERAL REFERENCES

General penalty -- See Ch. 1, Art. I

Discharge of offensive matter into streets – See Ch. 122, Art. I

Subdivision of land – See Ch. 200.

ARTICLE I. Permits to Build Sidewalks

ARTICLE II, Obstruction

§142-2. Permit required.

No person shall obstruct in any manner any sidewalk or ways of the Town without a permit from the Selectmen.

ARTICLE III, Discharge of Water onto Streets

§142-3. Emergency permits.

No person shall pump or otherwise discharge water or other liquids onto any street, public way or public place so as to create a dangerous condition unless the **Police Department, Fire Department or Highway Department**^[SPR62] ~~Board of Selectmen~~ permits same in an emergency.

ARTICLE IV, Openings and Excavations

§142-4. Road and sidewalk opening permit required.

No person shall excavate, remove material or open any Town-owned property without first obtaining a road and sidewalk opening permit from the Board of Selectmen **or its designee.**

§142-5. Fee.

The fee for a road and sidewalk opening permit shall be established pursuant to MGL Ch. 40 §22F, and a schedule of said fees shall be

§142-7. Violations and penalties.

Penalty for breach of this article of this Bylaw shall be a fine of \$200.

CHAPTER 152, TOWN MEETINGS

GENERAL REFERENCES

Elections – See Ch. 53.

Finance Committee – See Ch. 67.

Town Offices – See Ch. 155.

§152-1. Date of Annual Town Meeting and election of officers.

The Annual Town Meeting shall be held on the first Monday of April of each year. The election of such officers as are required by law to be elected by ballot and determination of such matters as are required by law to be determined by ballot shall be considered part of the Annual Town Meeting and shall be held on the **last Saturday in April of each year** [\[SPR64\]\[SPR65\]](#). ~~Saturday following the first Monday of April of each year.~~

§152-2. Delivery and posting of Warrant.

A copy of the Warrant for every Annual and Special Town Meeting, with a notice of the time and place of holding the same, shall be mailed or delivered to **each residence of one or more registered voters in Town** [\[SPR66\]](#) ~~every inhabited house in Town~~ and in addition thereto a copy of said Warrant and notice shall be posted at the post offices and two or more other public places in Town, **and shall be posted on the Town's website**, in accordance with the provisions of the Massachusetts General Laws,

§152-4. Quorum.

The quorum of any Annual or Special Town Meeting shall be 150 registered voters of the Town.

§152-5. Voting on amendments involving money.

In conducting Town Meeting, on the proposed amendments involving sums of money the larger of the largest amount shall be put to the question first, and an affirmative vote thereon shall be a negative vote on any smaller amount.

§152-6. Reconsideration of motions.

In conducting Town Meeting, when a motion for reconsideration is decided, that decision shall not be reconsidered and no question shall twice be reconsidered. No motion to reconsider a vote shall be in order after the meeting has been adjourned for any period of time subsequent to the passing of the vote which is sought to be reconsidered.

§152-7. Secret written ballot and two thirds votes.

A. Except on a motion on parliamentary procedure and except on a question involving an appropriation of money less than \$5,000.00, in conducting all town meetings, when a vote on a motion or question is doubted by seven (7) voters or more, a count or a secret written ballot shall be taken.

B. Whenever a two-thirds vote is required by statute, such vote may

Articles for the Annual Town Meeting warrant, except for Articles I (wage classification) and II (budgets), shall be inserted in the warrant in the order in which said articles are received by the Board of Selectmen. Articles for any Special Town Meeting warrant shall be inserted in the warrant in the order in which said articles are received by the Board of Selectmen. All petition articles, when received by the Board of Selectmen, shall be referred to the Town Clerk and Registrars of Voters for checking as to the correctness of signatures [\[SPR68\]](#).

~~§152-8~~ **§152-9** [\[SPR69\]](#). Order of consideration of articles.

In conducting Town Meeting, articles shall be considered in numerical order unless voted otherwise by a four-fifths majority of the voters present and voting at the meeting, or unless two or more articles are related in the opinion of the Moderator, in which event, the articles may be considered together.

~~§152-9~~ **§152-10** [\[SPR70\]](#). Voting on salary increases.

All proposed salary and wage increases for Town employees and officials other than employees of the School Department and increases previously approved shall be presented in a special article in the Town Warrant. Such salaries shall be itemized by department and job classification. On a motion duly seconded, a majority of voters present and voting at Town Meeting may require the Moderator to order a separate secret ballot on any position or classification included in a special article for proposed salary increases.

The Board of Selectmen shall fix the time when all Town offices and Town departments (other than those under the jurisdiction of the School Committee, Police and Fire Department), having one or more full time employee to whom the Classification and Salary Plan is applicable, shall be open and the Town employees present.

§155-2. Extra duty.

This shall not preclude, however, the authority of a department head to assign employees to extra duty above and beyond their regular hours as set forth by the Selectmen, provided such assignment conforms with the governing statutes.

§155-3. Authority of Selectmen to close offices.

The Board of Selectmen shall have the exclusive authority to close any Town office or department (**with the exception of the public schools**) [\[SPR71\]](#) for a day or a portion thereof other than regular scheduled holidays. The permanent full time employees of the Town shall be paid for such period as the offices or departments are closed by order of the Board of Selectmen.

CHAPTER 159, VEHICLES AND TRAFFIC

GENERAL REFERENCES

General penalty – See Ch. 1, Art I

ARTICLE I, Interference With Snow Plowing

§159-1. Removal of offending vehicles; liability for costs

purpose of removing snow or ice from any way may remove or cause to be removed to some convenient place (including ~~in such term~~ a public **or private** garage) any vehicle interfering with such work and the owner of such vehicle shall thereupon be liable for the cost of such removal and of the storage charged, if any, resulting therefrom.

§159-2. Unsafe conditions caused by ice and snow.

No person shall plow, shovel, discharge or block a sidewalk, street or public way, place or cause to be placed, snow or ice which could cause an unsafe condition.

§159-3. Violations and penalties.

Whoever violates any provisions of this Bylaw shall be liable to a penalty of not more than \$50 for each violation.

ARTICLE II, Obstruction of Fire Lanes

§159-4. Obstruction of access of fire equipment.

No person or persons shall obstruct by any means a private way so as to prevent access by fire apparatus or equipment to any multiple family building, stores, shopping centers, schools and places of public assembly.

§159-5. Parking in fire lanes; measurement.

No person or persons shall park a vehicle in a fire lane designated by the Fire Chief and so posted. Said fire lanes shall be a distance of **18 feet** ~~12 feet~~ from the curbing of a sidewalk in a shopping center.

may be removed or towed by the Town, under the direction of a police officer, at the expense of the owner and without liability to the Town.

§159-7. Signs and road markings.

The owner of record of any building **required to maintain a fire lane** ~~affected by this article~~ shall provide and install signs and road markings as **required by 527 CMR 10.00.** ~~provided in this section.~~ Said signs shall be no less than 12 inches by 18 inches and shall read “Fire Lane – No Parking – Tow Zone - **\$250 Fine**” [\[SPR73\]](#).

§159-8. Violations and penalties.

Any persons found in violation of the foregoing provisions shall, for each offense, be punished by a fine of **up to \$250** ~~\$100~~. Each day that such violation continues shall constitute a separate offense.

ARTICLE III, All-Night Parking

§159-9. Parking restricted.

No person shall allow, permit or suffer any vehicle registered in his **or her** 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 am and 6:00 am of any day from November 15th to April 15th.

140, Section 57 of the General Laws, if the Selectmen have received a written complaint on same. The Selectmen's judgment shall be final as to determine whether or not a motor vehicle is junked and dilapidated.

§163-2. Violations and penalties.

Penalty for a breach hereof shall be in an amount not in excess of \$200 for each offense which may be removed by indictment or on complaint before a District Court.

CHAPTER 164, VEHICLES, SALE OF

GENERAL REFERENCES

Vehicles and traffic – See Ch. 159

§164-1. License required; limit on number of licenses.

No person, except on whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells secondhand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells secondhand vehicles, shall engage in the business of buying, selling or exchange of secondhand motor vehicles or allow any property under his control to be used as a place of sale or display of such motor vehicles without first securing a Class II license as provided in MGL c. 140 §59. The total number of Class II licenses available shall be 25.

§164-2. Issuance of licenses.

A Class II license shall be defined in MGL c. 140, Section 59 and shall be

The licensing authority in the Town of Abington shall be the Board of Selectmen, and in issuing Class II licenses it shall follow the procedures set forth in MGL c. 140, Section 59.

§164-4. Application criteria.

- A. The total Class II licenses available shall be 25.
- B. No license will be granted to any applicant with outstanding unpaid taxes or fees owed to the Town of Abington.
- C. The sale of motor vehicles shall be the principal business of the applicant. Further, the applicant must be actively involved in the sale of used motor vehicles in the Town of Abington. No “pocket” licenses will be issued. (MGL c. 140, Section 58)
- D. The license holder must maintain or demonstrate access to repair facilities sufficient to enable him or her to satisfy the warranty repair obligations imposed by MGL c. 90, Section 7N ¼. (MGL c.140, Section 58)
- E. The Board of Selectmen shall cause an investigation of the facts stated in the application, that the applicant is a qualified person to engage in the business of selling motor vehicles in the Town of Abington. (MGL c. 140, Section 59.)
- F. A plot plan shall be submitted to the Board of Selectmen in addition to any **plot plan**[\[SPR74\]](#) that may be required by other boards.

- H. No Class II license shall be granted unless the licensing authority is satisfied from its investigation of the facts stated in the application, or other available information, that the applicant is a “proper person.” (MGL c. 140, Section 59)
- I. Any Class II license that is issued by the licensing authority shall specify all of the premises to be occupied and used by the licensee for the purpose of carrying on the licensed business. (MGL c. 140, Section 59)
- J. Permits for a change of situation of the licensed premises or any lawfully permitted additions thereto may be granted at any time by the licensing authority, in its discretion, in writing with a copy of any such permit to be attached to the license.
- K. The rules and regulations promulgated by the Registry of Motor Vehicles defining sufficient repair facilities for holders of used car dealer’s licenses (Class II) represent minimum standards that must be complied with by the holders of such licenses. (MGL c. 140, Section 58)
- L. An applicant for a Class II license must demonstrate compliance with all requirements of the Abington Zoning Bylaws, or **the approval of any required zoning relief** [\[SPR75\]](#) ~~providing a variance~~ from the Zoning Board of Appeals; otherwise such license will not be issued by the Licensing Authority.
- M. All licenses granted under MGL c. 140, Section 59 shall be revoked by the licensing authority if it appears after a hearing that

- B. All repairs and maintenance of motor vehicles on the premises are to be done inside of a building or buildings.
- C. Appropriate fencing may be required if, in the opinion of the Board of Selectmen, it is deemed necessary to control access to the property, or to maintain the aesthetic value of the neighborhood.
- D. The number of motor vehicles on the premises shall be limited to the available space as shown on the submitted plot plan. The spaces shall be regulated by the Abington planning and zoning regulations.
- E. Sufficient customer parking must be available on the premises to meet the requirements of the Zoning Bylaws of the Town of Abington. **Additionally**, one parking space for every 1,000 square feet of lot area used for the display of used motor vehicles **must also be available on the premises**[\[SPR76\]](#).
- F. The premises and abutting property must be kept free of debris emanating from the licensed area.
- G. Violation of any of the foregoing provisions shall be cause for suspension or revocation by the licensing authority of the license granted. (MGL c. 140, Section 59)

§164-6. New license application criteria.

- A. The specific site must be an appropriate location for such use.

- D. The applicant must show that adequate and appropriate facilities will be provided for the proper operation of the motor vehicle dealership, as specified by state and Town regulations.
- E. The applicant must show that the public convenience and welfare will be substantially served.
- F. The applicant must show evidence at the time of the public hearing that he or she has notified in writing all abutters 10 days prior to the hearing of his or her application. Such notice shall be at the sole expense of the applicant.

CHAPTER 167, WATER

ARTICLE I, Water Use Restrictions

§167-1. Authority.

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

§167-2. Purpose.

health, safety and welfare, by restricting and prohibiting unauthorized water use and/or unregistered water use by water users.

§167-3. Definitions.

“Persons” shall mean any individual, corporation, trust, partnership, association, or other entity which uses or it serviced by the Town’s public water supply.

“State of Water Emergency” shall mean a state of water emergency declared by the Department of Environmental Protection under M.G.L. c. 21G §§15-17.

“State of Water Supply Conservation” shall mean a state of water supply conservation declared by the town pursuant to §167-4 of this bylaw.

“Unauthorized Water Use” shall mean all activations of water services, fire hydrants (excluding Fire Department personnel during fire emergencies), or other segments of the public water system by any person not authorized by the Water Department.

“Unregistered Water Use” shall mean any water utilized or taken from the public water system without a means of calculating actual consumption.

“Water Users” or “Water Consumers” shall mean any public or private users of the Town’s public water system, irrespective of any person’s responsibility for billing purposes for water used at any particular residence or facility.

public that a state of water supply conservation has been declared, no person shall violate any provisions, restrictions, or requirements intended to bring about an end to the state of water supply conservation.

§167-5. Restricted water uses.

A declaration of a state of water supply conservation shall include one or more of the following restrictions, conditions or requirements limiting the use of water as necessary to protect the public water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under §167-7.

- A. Step One: Odd/even day outdoor watering restrictions. All outdoor water uses by water users with odd numbered addresses is restricted to odd numbered calendar days. All outdoor water uses by water users with even numbered addresses is restricted to even numbered calendar days.
- B. Step Two: Hand held hoses only. All outdoor water uses are restricted to hand held hoses only. The odd/even outdoor watering restrictions shall also be observed.
- C. Step Three: Outdoor watering hours. All outdoor water uses are restricted to hand held hoses only between the hours of 7:00 a.m. and 8:00 a.m. or between the hours of 8:00 p.m. and 9:00 p.m. The odd/even day outdoor watering restrictions shall also be observed.
- D. Step Four: Outdoor watering ban. All outdoor water use is prohibited for all uses.

§167-6. State of water supply emergency; compliance with DEP orders.

Upon notification to the public that a declaration of a state of water supply

Notification of any provisions, restrictions, requirements or conditions imposed by the Town as part of a state of water supply conservation, or by the Department of Environmental Protection as part of a state of water supply emergency, shall be given by the publication of at least one display advertisement in a newspaper of general circulation within the Town, by the posting of removable signs where any state highway crosses the Town line, and by such other means reasonably calculated to reach and inform all water users of the declaration of a state of water supply conservation and/or emergency. Any restrictions imposed shall not be effective until such notification is provided. Notification of the declaration of a state of water supply conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection in writing by the Board of Water Commissioners.

§167-8. Termination state of water supply conservation and/or emergency.

- A state of water supply conservation may be terminated by a majority vote of the Water Commissioners, at a public meeting, upon a determination that the water supply shortage no longer exists. A state of water supply emergency shall be terminated by the Department of Environmental Protection upon a determination that the emergency no longer exists. Public notification of the termination of a state of water supply conservation and/or emergency shall be given by the publication of at least one display advertisement in a newspaper of general circulation within the Town, by the removal of all erected water supply conservation and/or emergency signs, and by such other means reasonably calculated to reach and inform all water users of the termination of the state of water conservation and/or Emergency.

§167-10. Unregistered water usage.

No person, water user, or water consumer shall activate, or cause to be activated, water main and/or appurtenances to the public water system without first having a Water department-approved metering device installed to calculate the amount of water utilized. No person, water user, or water consumer shall remove and/or alter any metering device.

§167-11. Violations and penalties.

Any person found to have violated §167-5 and/or §167-6 of this bylaw will receive a written warning for the first offense and shall be liable to the Town in the amount of \$100 for each subsequent offense within the same calendar year. Any person found to have violated §167-9 of this bylaw shall be liable to the Town in the amount of \$300 for each offense. Any person found to have violated §167-10 of this bylaw shall be liable to the Town in the amount of up to \$300 for each offense. Fines shall be levied and assessed by employees of the Water Department and/or authorized agents of the Board of Water Commissioners upon witnessing any violation, or after investigating and verifying that a violation in fact occurred. Violators shall be entitled to appeal the assessment of any fines with the Board of Water Commissioners, and said appeal shall be held at a public meeting of the Board. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with M.G.L. c. 40 §21D. Each day on which a violation of §167-5 and/or §165-6 occurred shall constitute a separate offense.

§167-12. Severability.

The invalidity of any portion or provision of this bylaw shall not

The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land areas in Abington by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention including water quality, water pollution controls, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the “resource area values protected by this bylaw”). This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetland Protection Act (M.G.L. c. 131 §40) and Regulations thereunder (310 CMR 10.00).

§171-2. Jurisdiction.

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds of any size, rivers, streams, creeks, beaches, dunes, estuaries, lands under water bodies, lands subject to flooding or inundation by groundwater or surface water, or flooding, and lands abutting any of the aforesaid resource areas as set out in §171-7 (collectively the “resource area protected by this by law”). Said resource areas shall be protected whether or not they border surface waters.

§171-3. Applications for permits and requests for determination.

receiving and complying with a permit issued pursuant to this bylaw.

- B. The commission will accept as the permit application and plans under this bylaw the notice of intent and plans filed under the Wetlands Protection Act (M.G.L. c. 131 §40) and Regulations (310 CMR 10.00).
- C. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a request for determination (RFD) shall include information and plans as are deemed necessary by the Commission.
- D. At the time of the permit application or RFD, or application for certificate of compliance, the applicant shall pay a filing fee specified in Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act (M.G.L. c. 131 §40) and Regulations (310 CMR 10.00).
- E. Upon receipt of a permit application or RFD, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission to come to a final decision on the application. This fee is called the “consultant fee”. The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydro geologic and draining analysis; and researching environmental or land use law.
- F. The commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. If a revolving fund for consultant expenses and fees is authorized by

- G. 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. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.
- H. The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit application or RFD filed by a government agency.
- I. The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to industry standard fees.
- J. The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

§171-4. Notice and hearings.

- A. **Any person filing a notice of intent (“permit application”) with the Commission shall give written notification thereof, by delivery in hand or certified mail, return receipt requested, to**

notification shall be at the applicant's expense, and shall state where copies of the notice of intent may be examined and obtained and the date, time and place of the public hearing. Notices to abutters shall be postmarked or hand delivered no less than ten days prior to the public hearing. Proof of such notification, with a copy of the notice mailed or delivered, shall be filed with the conservation commission. [\[SPR77\]](#) ~~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 delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the Assessors, to be postmarked no less than 10 business days prior to hearing.~~

- B. The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.
- C. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant.
- D. 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 by the applicant.
- E. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (M.G.L. c. 131 §40) and Regulations (310 CMR 10.00).
- F. The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the

activities which are subject to the permit application of the rules and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. 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 unforeseeable future activities.

- B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- C. Land within 20 feet of rivers, ponds, and lakes and lands within 100 feet of other resource areas are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities.

disturbed without harm to the values protected by the bylaw.

- D. To prevent the wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetland alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands, but only with adequate security, professional design, and monitoring to assure success.
- E. 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 an additional period of up to three years, provided that a request for a renewal is received in writing by the Commission at least 30 days prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.
- F. For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination.
- G. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

regulations or legal determination of such authority by a court of law shall not act to suspend or invalidate the effect of this bylaw.

- B. At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

§171-7. Definitions.

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

- A. The term “bank” shall include the land area which normally abuts and confines a water body, the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.
- B. The term “vernal pool” shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such depression, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife.
- C. The term “rare species” shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.
- D. The term “person” shall include any individual, group of individuals, association, partnership, corporation, company,

areas protected by this bylaw:

1. Removal, excavation, or dredging of soil, sand, gravel or aggregate materials of any kind.
2. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics.
3. Drainage, or other disturbance of water level or water table.
4. Dumping, discharging, or filling with any material which may degrade water quality.
5. Placing of fill, or removal of materials, which would alter elevation.
6. Driving of piles, erection, or repair of building, or structures of any kind.
7. Placing of obstructions or objects in water.
8. Destruction of plant life including cutting trees.
9. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any water.
10. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater.
11. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

F. Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be set forth in the Wetlands Protection Act (M.G.L. c. 131 § 40) and

conditions imposed here under (including conditions required in addition work) be secured wholly or in part by one or more of the methods described below:

- A. By proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a certificate of compliance for work performed pursuant to the permit.
- B. By accepting 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.

§171-9. Enforcement.

- A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.
- B. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to make such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitution and laws of the United States and the Commonwealth.

- E. Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine if not more than \$300 each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

§171-10. Burden of proof.

The applicant for a permit shall have the burden of providing by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

§171-11. Appeals.

A decision of the Commission shall be reviewable by the Superior Court in accordance with M.G.L. c. 249 §4.

§171-12. Relation to Wetlands Protection Act.

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (M.G.L. c. 131 §49) and Regulations (310 CMR

ENDNOTES / HISTORICAL REFERENCES

CHAPTER 1, GENERAL PROVISIONS

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

ARTICLE I, General Penalty [Derived from Ch. 9, Sec. 1, of the 1992 Town of Abington Bylaws; amended by Art. 37 of 1996 ATM]

§1-1. Maximum fine. *[Amended by Art. xx of 2006 ATM] (maximum fine increased from \$50 to \$300 per MGL Ch. 40 §21; each day is a separate offense)*

§1-2. Recovery of fine by indictment or otherwise. *[Amended by Art. xx of 2006 ATM] (to allow non-criminal disposition of fines per MGL Ch. 40 §21D; also minor grammatical updates)*

§1-3. Reference to statute. *[Adopted by Art. xx of 2006 ATM]*

§1-4. Town website. *[Adopted by Art. xx of 2006 ATM]*

CHAPTER 7, ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Town Meeting of the Town of Abington as

Art. xx of 2006 ATM] (updated and clarified wording; selectmen may issue permits for use of public property)

§7-3. Violations and penalties. *[Amended by Art. xx of 2006 ATM] (updated and clarified wording; fine increased from \$50 to \$100)*

CHAPTER 11, ANIMALS

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

ARTICLE I, Pasturing of Certain Animals [Derived from Ch. 9, Sec. 2, of the 1992 Town of Abington Bylaws]

ARTICLE II, Dogs [Derived from Ch. 10 of the 1992 Town of Abington Bylaws]

§11-2. Running at large prohibited; exception for hunting purposes. *[Amended by Art. xx of 2006 ATM] (updated and clarified wording)*

§11-3. Impoundment; maintenance and administrative charges. *[Amended by Art. 36 of 1996 ATM]; [Amended by Art. xx of 2006 ATM](schedule of fines and fees removed from bylaws)*

§11-4. Registration required; dogs disturbing the peace; license period *[Amended by Art. 27 of 1999 ATM]; [Amended by Art. xx of 2006 ATM] (dog license period amended to run from July 1 to June 30)*

§11-7. Pit bull terriers. *[Amended by Art. xx of 2006 ATM] (updated and clarified wording)*

§11-8. Kennels. *[Amended by Art. 18 of 1997 ATM]*

§11-8(B). *[Amended by Art. xx of 2006 ATM] (updated and clarified wording; inserted minimum notice requirements and minimum standards for kennel license approval)*

§11-8(C). *[Amended by Art. xx of 2006 ATM] (required kennel fees to be set per MGL Ch. 40 §22F and filed with Town Clerk)*

§11-8(D). Kennel License Period. *[Amended by Art. 11 of 1998 ATM; Art. 27 of 1999 ATM]*

§11-8(E). *[Amended by Art. xx of 2006 ATM] (updated and clarified wording)*

§11-8(G). *[Amended by Art. xx of 2006 ATM] (updated and clarified wording)*

§11-8(I). *[Amended by Art. xx of 2006 ATM] (required a public hearing to reinstate a suspended kennel license, with required prior notice to abutters)*

§11-8(J). *[Amended by Art. xx of 2006 ATM] (updated and clarified wording)*

§11-8(M). *[Deleted by Art. xx of 2006 ATM] (2006 revisions to §11-8 (B) required deletion of this section (M))*

§11-9. Animal waste. *[Added by Art. 30 of 1997 ATM]; [Amended by Art. xx of 2006 ATM] (updated and clarified wording; changed “dog” to “animal”; fine increased from \$10 to \$25)*

CHAPTER 17, BOARDS, COMMITTEES AND COMMISSIONS

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

ARTICLE I, Terms of Office [Derived from Ch. 3, Sec. 4, of the 1992 Town of Abington Bylaws; added by Art. 29 of 1996 ATM]

§17-1. Term to be specified at creation; default term. *[Amended by Art. xx of 2006 ATM] (inserted “the Town Manager”)*

ARTICLE II, Organization *[Adopted 10-24-2000 STM by Art. 28]*

§17-2. Reorganization by elected officials. *[Amended by Art. xx of 2006 ATM] (updated wording; revised reorganization deadline from May 1 to May 15 or next meeting after Town Election; changed “chairman” to “chairperson”; changed “Board of Selectmen” to “Town Manager”; revised May 20 to June 15)*

§17-3. Reorganization by appointed officials. *[Amended by Art. xx of 2006 ATM] (updated wording; revised reorganization deadline from*

ATM] (updated wording to require all public hearings to be noticed at minimum by posting at Town Offices, and posting on Town website, and if required by statute or internal rule, by display advertisement in local newspaper)

CHAPTER 25, BUILDINGS, NUMBERING OF

[HISTORY; Derived from Ch. 8, Sec. 14, of the 1992 Town of Abington Bylaws. Amendments noted where applicable.]

§25-1. Display of numbers. *[Amended by Art. xx of 2006 ATM]*