

# TOWN OF MAYNARD



## TOWN BY-LAWS

Effective October 16, 2021



TOWN OF MAYNARD  
BY-LAWS  
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# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 1

#### TOWN MEETING

**Section 1:** The Warrant for the Annual Town Meeting, and any and all Special Town Meetings, shall be printed in a local publication or delivered to each household, at the discretion of the Select Board, and made available at the Town Building, Town website, and Post Office at least 14 days prior to the meeting. The Warrant shall state the time and place at which the meeting is to convene and, by separate articles, the subject matter to be acted upon.

**Section 2:** Town Meeting shall be notified by posting an attested copy of the warrant calling the same, one at the Post Office, and at each of the ten (10) other public places in Town, seven (7) days at least before the day appointed for said meeting.

**Section 3:** Seventy-five (75) voters at a Town Meeting shall constitute a quorum, except for a motion to adjourn for which no quorum shall be required, provided, however, that no vote shall be held to be invalid by a reason of lack of the required quorum unless it appears from the records of the Clerk of the meeting that before the result of such vote was declared the question of the presence of a quorum was duly raised and that the record shows that the required quorum was lacking.

**Section 4:** The Select Board shall submit to the Finance Committee a copy of all Town Warrants at least ten (10) days before printing the same.

**Section 5:** Terms of appointed officials of multiple member boards, commissions and committees shall commence on the first day of July. Newly appointed officials of multiple member boards, commissions and committees shall be appointed for terms as outlined in Section 7-12 of the Town Charter. Lengths of terms may be changed in accordance with the provisions of Section 5-1 of the Town Charter.

**Section 6:** The Annual Town Meeting to make appropriations for the ensuing year and act upon other business as may properly be considered shall be held on the third Monday of May of each year not earlier than 7:00 P.M. An Annual Town Election for the election of town officers (refer to Section 3-1(a) of the Town Charter for a listing of elected Town Officers) and for voting on all other matters to be determined by ballot shall be held on the first Tuesday of May of each year.

**Section 7:** The Annual Town Report, containing reports of all officers and boards shall be printed and made available on or before the first Monday of May of each year. These reports shall be acted upon at the Annual Town Meeting.

**Section 8:** A vote shall be reconsidered only upon a motion by a voter who was present at the vote on the article in question only with the addition of new information which shall be determined by the Town Moderator. Any motion to reconsider a vote shall be made within 30 minutes of the time the result of that vote is announced. A vote of two-thirds of the voters

present and voting is necessary in order to reconsider an article previously voted upon. No article can be moved for reconsideration more than once during any given town meeting. The result of a vote on a motion for reconsideration shall be final.

**Section 9:** No person shall speak more than twice upon any question without first obtaining leave of the meeting, except to correct an error, or make an explanation, nor until all others who have not spoken upon the question, and desire to do so, shall have an opportunity.

**Section 10:** No motion to end any town meeting shall be in order until every article in the warrant has been duly considered, acted upon or withdrawn. This section shall not operate to prevent any town meeting from being adjourned to a stated time prior to the time all articles have been considered and acted upon.

**Section 11:** No vote fixing the time for closing a ballot shall be reconsidered after such ballot has started, but the time for closing such ballot may be extended without such reconsideration.

**Section 12:** No motion to lay a matter on the table, the previous question or to postpone indefinitely shall be in order until a motion has been made under an article and a reasonable amount of discussion has taken place.

**Section 13:** When a question is under debate, motions may be received to lay the matter on the table, the previous question, to postpone indefinitely, to postpone to a certain time, to commit and to amend, which several motions shall have precedence in the order in which they are herein enumerated, and the first two shall be decided without debate.

**Section 14:** A vote to receive the report of a committee shall place the report before the meeting but not discharge the committee. A vote to accept a report of a committee with or without amendments or modifications shall discharge the committee.

**Section 15:** Articles in the warrant shall be acted upon in their order unless directed by vote of the meeting.

**Section 16:** Those motions that are deemed to be non-controversial may be listed and one vote shall be taken on the motions so listed. This is commonly called a Consent Calendar. Any motion so listed shall be removed from the list at the request of any voter prior to the vote thereon.

**Section 17:** Unless otherwise determined by the Town Meeting as specified below, a secret written ballot vote shall be taken for the adoption of any and all articles or amendments thereto where the article or amendments concerns or is related to any of the following subject matters:

- A. Wages or hours of employment, or benefits, or conditions of employment of any town officer or employee.
- B. The acquisition, sale or lease of any real estate by the Town.
- C. Borrowing by the Town.
- D. Authorization for expenditures greater than 0.1 percent of the current Town General Fund Budget.
- E. Zoning Articles.
- F. An appropriation related to any of the subject matters listed in A. to E.

The Moderator shall determine whether the subject matter of the article or amendment falls within the subject areas. If the Moderator determines that an open vote shall apply, no fewer than twenty-five (25) voters may request that a secret ballot vote be used provided appropriate motion to do so is made before the actual open vote is taken. Should this be the case, the article or amendment shall be voted by secret ballot.

## TOWN OF MAYNARD

### BY –LAWS

### CHAPTER 2

### TOWN CLERK

**Section 1:** The Town Clerk shall have custody of the Town Seal.

**Section 2:** It shall be the duty of the Town Clerk to see that every conveyance to the Town of any interest in real property and any plan thereof, is properly recorded in the Registry of Deeds.

**Section 3:** The Town Clerk shall prepare a report upon the vital statistics of the Town for publication in the Annual Town Report.

**Section 4:** It shall be the duty of the Town Clerk to make and keep a record of the doings of every Town Meeting.

**Section 5:** It shall be the duty of the Town Clerk to immediately notify in writing all members of committees who may be elected or appointed, stating the business upon which they are to act and the names of persons composing the committees.

**Section 6:** It shall be the duty of the Town Clerk to furnish the Town Accountant and the Board of Assessors with a statement of all the appropriations made by the Town at any Town Meeting, and the purpose for which said appropriations were made and the manner of raising the same. The Town Clerk shall notify all boards, officers and committees of all votes passed at any Town Meeting in any way affecting them.

**Section 7:** It shall be the duty of the Town Clerk to keep and properly file all deeds, bonds, contracts, agreements, releases and all other papers and documents in any way affecting the interests of the Town. All such papers and documents, unless otherwise required by law, shall be filed with the Town Clerk by all boards, officers and committees, when the work to which such papers and documents pertain has been completed.

**Section 8:** The Board of Registrars of Voters shall delegate the Town Clerk as the sole distributor of the annual listing prepared by them in accordance with the General Laws. They shall determine what shall be a reasonable charge for said listing and the Town Clerk shall collect said charge for each listing distributed, except those that are distributed to Town Departments or officers and those specifically exempt by law from charge.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 3

#### TOWN TREASURER AND COLLECTOR

**Section 1:** The Town Treasurer and Collector is authorized to collect all accounts due the Town in accordance with the provisions of Massachusetts General Laws and amendments thereto. Said authorization is to remain in effect until the Town shall otherwise vote.

**Section 2:** Before entering upon the duties of the office, the Town Treasurer and Collector shall give bond to the Town in the penal sum of not less than five (5) percent of the next fiscal year's projected tax levy, with good and sufficient sureties, to be approved by the Select Board. Said bond shall be upon condition that said Town Treasurer and Collector shall well and faithfully discharge the duties of this office.

**Section 3:** The Select Board shall require from the Town Treasurer and Collector a new bond, in the penal sum of not less than five (5) percent of the next fiscal year's projected tax levy, with good and sufficient sureties, to be approved by the Select Board, after each appointment and reappointment to said office. If reappointed in accordance with Article 7, Section 7-12 of the Town Charter, the Town Treasurer and Collector shall, in agreement with Section 1 of this chapter of the Town By-laws, maintain a bond and provide said bond to the Town upon each and every bond renewal.

**Section 4:** The Town Treasurer and Collector shall within thirty (30) days after receiving the tax list from the Board of Assessors, make out and send to every taxpayer notice of the taxpayer's assessment, on which shall be printed the rate of taxation, a statement of the interest to be charged for non-payment and a notice of the time within which the taxes must be paid to avoid costs, arrest, or levy upon property.

#### **Section 5**

- A. 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 a pending petition before the appellate tax board.
- B. The Licensing Authority may deny any application for or revoke or suspend a building permit or any local license any or permit, including renewals and transfers of any Party whose name appears on said list furnished to the Licensing Authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of

such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any Party whose name appears on said list furnished to the Licensing Authority from the Tax Collector; provided, however, that written notice is given to the Party and the Tax Collector, as required by applicable provisions of law, and the Party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any Party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the Licensing Authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the Licensing Authority receives a certificate issued by the Tax Collector that the Party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as of the date of issuance of said certificate.

- C. Any Party shall be given an opportunity to enter into a payment agreement, thereby allowing the Licensing Authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said Agreement. Failure to comply with said Agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- D. The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Massachusetts General Law Section one of chapter two hundred and sixty eight A in the business or activity conducted in or on said property.
- E. The following licenses and permits shall be exempt from this By-law; open burning, bicycle permits, sales of articles for charitable purposes, children work permits, clubs, associations dispensing food or beverage license, dog licenses, fishing, hunting, trapping licenses, marriage licenses, permits for theatrical events and public exhibition permits.

## TOWN OF MAYNARD

### BY-LAWS

#### CHAPTER 4

#### TOWN OFFICERS, BOARDS AND COMMITTEES

The Town shall have the following Officers and Multiple Member Governmental bodies with members appointed by the indicated authority for the stated terms.

##### Select Board

Officer	Term	Comments
Town Administrator	3 year	renewable contract
Assistant Town Administrator	Indefinite	
Town Counsel	Contract	
Director of Public Works	Indefinite	
Police Chief and all police officers	Indefinite	
Fire Chief	Indefinite	
Town Planner	Indefinite	
Veterans Administrator	Indefinite	
Director of Emergency Management	Indefinite	
One or more Constables	Indefinite	
Two or more Fence Viewers	Indefinite	
Towns Representative to Town	Indefinite	
Retirement Board		
Keeper of Lock Up	Indefinite	
Representative to MAPC	Indefinite	
Right to Know Coordinator	Indefinite	
Tree Wardens	Indefinite	

Boards/ Committees	Number of Members	Term in years	Number appointed per year
Americans with Disabilities Acts Commission	5	3	2/2/1
Conservation Commission	5	3	2/2/1
Industrial Development and Finance Authority	5	3	2/2/1
Maynard Historical Commission	5	3	2/2/1
Board of Appeals	5	3	2/2/1
	Also appoints 2 associate members		
Board of Assessors	3	3	1/1/1
Board of Health	3	3	1/1/1

Community Preservation Committee	9	3	3/3/3
Select Board only appoint 3 members, remaining members appointed per the Community Preservation Committee bylaw.			
Planning Board	5	5	1/1/1/1/1
Also appoints 1 associate member for a term of 3 years			
Public Works Advisory Committee	3	3	1/1/1
Capital Planning Committee	5	3	2/2/1
Maynard Citizen's Corps	7	1	7
Executive Board			
Board of Health appoints 3; Select Board, School Committee, Fire Chief and Police Chief appoint 1 each. Unlimited volunteers approved by Executive Board			
Recreation Commission	5	3	2/2/1
Board of Registrars	5	3	2/1/1
Town Clerk to be a permanent member			
Cable Television Committee	5	3	2/2/1
Council On Aging	5	3	2/2/1
Cultural Council	7	3	3/2/2

## **Town Administrator**

<b>Officer</b>	<b>Term</b>	
Town Clerk	Indefinite	
Financial Director	Indefinite	
Town Treasurer/Collector	Indefinite	
Town Accountant	Indefinite	
Chief Assessor	Indefinite	In conjunction with the Board of Assessors
Board of Health Director/ Public Health Officer	Indefinite	In conjunction with the Board of Health
Conservation Agent	Indefinite	In conjunction with the Conservation Commission
Director, Council On Aging	Indefinite	In conjunction with the Council On Aging
Sealer of Weights and Measures	Appointed Yearly	
Facility Manager	Indefinite	
Building Commissioner/Zoning Code Enforcement Officer	Indefinite	
Plumbing Inspector	Appointed Yearly	
Inspector of Gas piping and Gas Appliances	Appointed Yearly	
Wiring Inspector	Appointed Yearly	
Dog Officer	Appointed Yearly	
Inspector of Animals	Appointed Yearly	
Hazardous Waste Committee	3 years	
All Assistant Inspectors	Appointed Yearly	

**Town Moderator  
Committee**

	<b>Number of Members</b>	<b>Term in years</b>	<b>Number appointed per year</b>
Finance Committee	7	3	3/2/2
By-Law Committee	5	3	2/2/1
Standing Committees authorized by Town Meeting		As Needed	

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 5

#### FINANCE COMMITTEE

**Section 1:** There shall be a Finance Committee consisting of seven (7) voters of the Town, no one of whom shall be a town officer elected by ballot, or departmental official or employee receiving a salary. The Finance Committee shall have all the powers and duties established in Article 2, Section 2-3(b) of the Town Charter plus additional powers and duties that are provided by general law or by this By-law. The members of this committee shall be sworn to the faithful performance of their duties and shall serve without a salary.

**Section 2:**

- A. The Finance Committee shall be appointed by the Moderator. The Moderator, after being elected at the annual town election shall appoint each year members to the Finance Committee for a term of three (3) years each. The number of persons to be appointed shall be determined by the sequence of 2, 2, 3 with the following initial appointments: that the two expiring terms in Fiscal Year 2009 are appointed for three year terms, and that the following fiscal year -the term expiring in Fiscal year 2010 and a term of a member expiring in fiscal year 20 11 (chosen by the moderator) be appointed for three year terms and that the remaining terms expiring in fiscal year 2011 be appointed for three year terms the next following year. Said appointed members shall qualify on or before July 15 following the annual town election. A vacancy shall occur by reason of: 1) a member failing to qualify; 2) a member's excessive absence as stated in Section 7-11 of the Town Charter; 3) a member's resignation.
- B. The term of office of said members shall commence on the first day of July. The new committee shall be called to session by the Moderator before July 15 and the Moderator shall preside until a chairperson is elected. The first order of business shall be the election of a secretary. Vacancies shall be filled according to Article 7, Section 7-9 (d) of the Town Charter. A quorum shall be defined as a majority of the members then in office, not including any vacancies which might then exist.

**Section 3:** Not less than ten (10) days before the Annual Town Meeting, the Town Administrator shall file with the Finance Committee a detailed statement showing all expenditures made the previous year by the several Town departments and committees.

**Section 4:** If the original purpose of an appropriation has been completed, discontinued or in any respect satisfied, any unexpended balance of an appropriation made for such a specific purpose, except proceeds from bonds or notes, shall be transferred to surplus revenue at the expiration of two (2) years from the date of the availability of such appropriation, unless such balance is earlier transferred to surplus revenue upon receipt of a statement that the specific purpose has been accomplished and that no other liabilities remain, or such balance is earlier

transferred to another use by the Town Meeting vote, or a date otherwise specified in the original appropriation vote. If the original purpose of any such appropriation has not been completed, discontinued or otherwise satisfied within two (2) years from the date of the availability of such appropriation, a written statement from the town agency having control or direction of such funds may request an extension of not more than one (1) additional year to complete, discontinue or otherwise satisfy such original purpose.

## TOWN OF MAYNARD

### BY-LAWS

### CHAPTER 6

### ASSESSORS

**Section 1:** The Assessors shall, in addition to the other duties prescribed by law, have printed for distribution a list of all properties and value thereof once every five years. Said list shall be distributed free of charge to all departments in the Town, but the Assessors shall determine and collect for the benefit of the Town a reasonable charge for all copies thereof.

**Section 2:** The Assessors shall adhere to the provisions of Massachusetts General Law, Ch. 59, § 5, Clause 17C, as amended, (as inserted by Ch. 258§ 6, of the Acts of 1982) providing for real estate tax abatement to surviving spouses, minors with parents deceased and certain persons over seventy years of age.

**Section 3:** The Assessors shall adhere to the provisions of Massachusetts General Law, Ch. 59, § 5, Clause 37A as amended, (as inserted by Ch. 653, § 3 of the Acts of 1982) providing for real estate tax exemptions for the blind persons.

**Section 4:** The Assessors shall adhere to the provisions of Massachusetts General Law, Ch. 59, § 5, Clause 41B, as amended, (as inserted by Ch. 653, § 5, of the Acts of 1982) providing for real estate tax exemptions for the elderly.

TOWN OF MAYNARD

BY-LAWS

CHAPTER 7

BOARD OF HEALTH

**Section 1:** The primary duty of the Board of Health shall be to look after the sanitary condition of the Town. The Board of Health shall also make all such regulations as it judges necessary for the public health and safety respecting nuisances, sources of filth and causes of sickness within the Town and respecting articles which are capable of containing or conveying infection or contagion, or of creating sickness brought into or conveyed from the Town.

**Section 2:** It shall be the duty of the Board of Health to enter complaint against all persons offending against the laws of this Commonwealth, providing for the preservation of the public health, and to prosecute the same to final judgment at the expense of the Town.

TOWN OF MAYNARD

BY-LAWS

CHAPTER 8

POLICE COMMISSIONERS

**Section 1:** The Select Board shall be the Police Commissioners.

**Section 2:** It shall be the duties of the Police Commissioners to fill all vacancies on the regular police force, and to appoint sufficient additional special officers to properly preserve the peace.

**Section 3:** The Police Commissioners are hereby empowered to make and enforce regulations necessary to make effective the provisions of this By-law and to make and enforce temporary regulations to cover emergencies of special conditions.

TOWN OF MAYNARD

BY-LAWS

CHAPTER 9

COUNCIL ON AGING

**Section 1:** In accordance with Massachusetts General Law, Ch. 40, § 8B as amended, there is hereby established a Council On Aging for the purpose of coordinating and carrying out programs designed to meet the issues of the elder population.

- A. The Council shall annually review the Executive Director's Performance consistent with the Town Personnel Policies.
- B. The Council shall approve all programs offered to meet the issues of the elder population.

**Section 2:** The council shall consist of five (5) members appointed by the Select Board for a term of three (3) years, except the initial appointment shall be one (1) member for one (1) year, two (2) members for three (3) years each and two (2) members for two (2) years each. All members shall hold office until their successors are designated by the Select Board. Any appointment to fill a vacant unexpired term shall serve only the remainder of the term. There shall be no age restriction nor requirement to serve on the Council On Aging.

**Section 3:** The council shall submit an annual report to the town and shall send a copy thereof to the Massachusetts Executive Office of Elder Affairs.

**Section 4:** The members of the Council shall serve without compensation.

## TOWN OF MAYNARD

### BY-LAWS

#### CHAPTER 10

#### BY-LAW COMMITTEE

**Section 1: Membership.** The Town By-law Committee shall consist of five registered voters of the Town. Members of the committee shall be appointed by the Moderator. When first appointed, two (2) members shall be appointed for a three (3) year term, two (2) for a two (2) year term and one (1) for a one (1) year term. Thereafter, member's terms shall expire July 1, except that members shall continue in office until their successors have been duly appointed and qualified. Vacancies shall be filled by the Moderator for the balance of unexpired terms. After the approval of a new Charter by the Town, the numbers of members shall be increased by two (2) to include members of the charter review committee. The members from the Charter Review Committee shall serve until the revision of the by-laws relative to the Charter revisions is presented to the town meeting by a warrant article and the town meeting takes action thereon, at which time their positions shall automatically cease.

**Section 2: Authority.** Any duly authorized revisions, amendments, additions or other changes pertaining to the By-laws shall be presented to the By-law Committee prior to the town meeting taking any action thereon.

**Section 3: Administration.** The Town Administrator shall have the responsibility to keep the By-laws current. The Town Clerk shall have the responsibility to make a current and concise version of the By-laws available to the public and may charge a reasonable fee to cover the cost for the distribution to the public, notwithstanding any other provisions of the By-laws.

**Section 4: Other Duties.** The By-law Committee shall in addition to the other duties prescribed by law at least every two (2) years cause to be revised for distribution all By-laws of the Town.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 11

#### COMMUNITY PRESERVATION COMMITTEE

##### **Section 1:** Establishment; Appointment of Members; Membership; Terms of Office

- A. There is hereby established, pursuant to the Community Preservation Act, a Community Preservation Committee ("Committee ") consisting of nine (9) voting members. The composition of the Committee, the appointing authority and the terms of office for the Committee members shall be as follows:
- One member of the Conservation Commission as designated by the Conservation Commission for a term of three years;
  - One member of the Historical Commission as designated by the Historical Commission for an initial term of one year and thereafter for a term of three years;
  - One member of the Planning Board as designated by the Planning Board for an initial term of two years and thereafter for a term of three years;
  - One member of the Recreation Commission as designated by the Recreation Commission for an initial term of two years and thereafter for a term of three years;
  - One member of the Housing Authority as designated by the Housing Authority for a term of three years;
  - One member of the Capital Planning Committee as designated by the Capital Planning Committee for an initial term of two years and thereafter for a term of three years;
  - Three members to be appointed by the Select Board who are citizens of the Town of Maynard; one member to be appointed for three years, one member to be appointed for two years and thereafter for a term of three years and one member to be appointed for one year and thereafter for a term of three years.
- B. The Commissions, Boards, Committees or authorities who have appointment authority under this chapter shall appoint such representatives within 45 days of the effective date of this By-law.
- C. Should there be a vacancy or resignation in any of the Community Preservation Committee positions, the Commissions, Boards, Committees or authorities who have appointment authority under this chapter shall appoint a new representative within 45 days of the of the first date of vacancy or resignation.

- D. Should any of the Commissions, Boards, Committees or authorities listed in this section no longer be in existence for whatever reason, the Select Board shall appoint a person with similar experience and responsibilities to serve in his or her place.
- E. Any member of the Committee may be removed for cause by their respective appointing authority after hearing.

## **Section 2: Meetings, Quorum, Chair:**

- A. The Committee shall comply with the provisions of the Open Meeting Law (G.L. c. 30A, §§ 18-25). The Committee shall not meet or conduct business without the presence of a quorum, which shall be a majority of members of the Committee. The Committee shall approve its actions by a majority vote of the members present, except as otherwise required by law.
- B. At the first meeting of each fiscal year, the Committee shall elect a chairperson and a clerk by a majority vote.

## **Section 3. Powers and Duties**

- A. The Committee shall study the needs, possibilities and resources of the town regarding community preservation. The Committee shall consult with existing municipal boards, including, but not limited to, the Conservation Commission, Historical Commission, Planning Board, Recreation Commission, Housing Authority, Finance Committee and Select Board in conducting such study. The Committee may consult with other town boards, committees, commissions and community organizations as it sees fit. The Committee shall hold at least one (1) public informational hearing each year on the needs, possibilities and resources of the town regarding community preservation for which it shall publicly post notice by the Town Clerk, such notice to be published in a newspaper of general circulation in the town for each of the two weeks preceding the hearing.
- B. The Committee shall make recommendations in proper form to the Town Meeting for:
  - The acquisition, creation, and preservation of open space;
  - The acquisition and preservation of historic resources;
  - The creation, preservation, and support of community housing,
  - The acquisition, creation, and preservation of land for recreational use; and
  - The rehabilitation or restoration of such open space, historic resources, land for recreational use, and community housing that is acquired or created with funds received in accordance with the Community Preservation Act, MGL Chapter 44B, Sections 3 to 7.

With respect to community housing, the Committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

- C. The Committee shall hold at least one public hearing to discuss any proposed

acquisition prior to making any recommendation to Town Meeting.

- D. In each fiscal year, the Committee shall recommend spending, or setting aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of open space (not including land for active recreation purposes), historic resources, and community housing. The Committee may also recommend an appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee's administrative and operating expenses. The Committee shall report each year to the Town Meeting on its actual expenditures and anticipated expenditures for administration and operating costs.
- E. The Committee may recommend to Town Meeting that funds be set aside for later spending for specific purpose; consistent with the Community Preservation Act, when sufficient revenues are not then available in the Community Preservation Fund, or for general purposes that are consistent with Community Preservation
- F. Recommendations to Town Meeting shall include the anticipated costs of the proposed appropriation consistent with the Community Preservation Act and a description of the project.
- G. The Committee shall keep a full and accurate account of all of its actions including its recommendations and the action taken on them, and records of all appropriations or expenditures made from the Community Preservation Fund. The records of the Committee shall be public records, to the full extent provided by law.

**Section 4:** Amendments. This Chapter may be amended from time to time by a majority vote of the. Town Meeting, provided that such amendments would not cause conflict to occur with the Community Preservation Act.

**Section 5:** Severability. In case any section, paragraph or part of this chapter be for any reason declared invalid unconstitutional any court of last resort, every other section, paragraph or part shall continue in full force and effect.

**Section 6:** Effective Date. This by-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of G.L. c40, s32 have been met. Each appointing authority shall have 45 days after approval by Town Meeting to make its initial appointments.

**TOWN OF MAYNARD**

**BY-LAWS**

**CHAPTER 12**

**TOWN SEAL**

Section 1:

The Town has adopted the Town Seal depicting the Town Clock as was used at the Maynard Centennial in 1971.

**MAYNARD TOWN SEAL**



# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 13

#### PERSONNEL BYLAW

**Section 1.** Purpose and Intent. The purpose of the Personnel Bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensure a uniform fair and efficient application of personnel policies. The intent of this bylaw is to provide a method of recruitment, selection, development, and retention of a work force that is skilled and effective in accomplishing the service delivery mission of the Town. Personnel actions are to be made without regard to sex, race, religion, color, age as defined by law, disability, political affiliation or other non-job related factors, and shall be based on merit and fitness.

**Section 2.** Application. All Town departments and positions shall be subject to the provisions of this bylaw, except elected officers, members of boards and commissions, and employees of the School Department. To the extent that the provisions of any collective bargaining agreement conflicts with any provisions of this bylaw or personnel policies adopted pursuant to Section 5, the provisions of the collective bargaining agreement shall prevail. This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Law, Chapter 41, Sections 108A and 108C.

**Section 3.** Responsibility of the Town Administrator. The Town Administrator shall be responsible for the establishment and maintenance of a personnel system based on merit principles. The Town Administrator shall have all the personnel management powers and duties as provided by the Maynard Town Charter and shall formulate personnel policies pursuant to Section 5 of this bylaw.

**Section 4.** Contents of Personnel Policies. The personnel policies shall establish a personnel system which shall include, but need not be limited to, the following elements:

- a) A method of administration. A system of administration which assign specific responsibility for all elements of the personnel system, including: maintaining personnel records; implementing effective recruitment and selection processes; maintaining the classification and compensation plans; monitoring the application of policies and periodic reviews and evaluation of the personnel system.
- b) A classification and compensation plan.
- c) A recruitment and selection policy.
- d) A centralized personnel record keeping system, and
- e) Other elements of a personnel system as deemed appropriate or necessary.

**Section 5.** Adoption of Policies. The Town Administrator is empowered and authorized by this bylaw to adopt personnel policies defining the rights, benefits, and obligations of employees subject to this bylaw, provided however, decisions made by the Town Administrator to classify a position shall be subject to the ratification of the Town Meeting. The Town Administrator shall be responsible for the development of personnel policies. Any Board or Committee, department head, or any single employee or group of employees may

recommend personnel policies to the Town Administrator for consideration. Such policies shall become effective in accordance with the following procedure:

- a) The Town Administrator shall prepare proposed personnel policies.
- b) The Town Administrator shall consult with employees that may be affected by proposed changes in personnel policies.
- c) The Town Administrator shall finalize personnel policies and transmit in writing any proposed policies to the Select Board.
- d) Policies shall become effective on the thirtieth day following the day on which notice of proposed policy is filed with the Select Board, unless the Select Board shall within said period vote to reject any such policy.
- e) Copies of new or amended policies shall be posted and distributed to department heads and employees.

**Section 6.** Severability. The provisions of this bylaw and any policies adopted pursuant to this bylaw are severable. If any bylaw provision or policy is held invalid, the remaining provisions of the bylaw or policy shall not be affected thereby.

**Section 7.** Effective Date. This bylaw shall take effect July 1, 2005.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 14

#### PROSECUTIONS

**Section 1:** In all cases in which no other provision has been made for prosecutions it shall be the duty of the Select Board, the Constables, Police Officers under the Select Board and the Truant Officers under the direction of the School Committee, so far as regards truants to prosecute all violations of the foregoing By-laws by complaint before any Court having jurisdiction in the County of Middlesex; and all fines recovered for such violations shall be paid into the Town Treasurer and Collector.

## TOWN OF MAYNARD

### BY-LAWS

#### CHAPTER 15

##### NON-CRIMINAL DISPOSITION OF BY-LAW VIOLATIONS

**Section 1:** This By-law provides for the non-criminal disposition of a violation of any Town By-law or any rule or regulation of any Town Officer, Board, or Department, the violation of which is subject to specific penalty. This By-law is enacted in accordance with Massachusetts General Law, Ch. 40, Section 21-D, as it may be amended from time to time (herein called Section 21-D).

**Section 2:** “Enforcing Person” used in this By-law shall mean any regular Police Officer of the Town of Maynard; the Building Inspector; Fire Chief; Fire Captains; Board of Health Agent; Dog Officer; or any such other Official as the Select Board may from time to time designate, each with respect to violation of By-laws or rules and regulations within their respective jurisdictions. If more than one Town Agency or Official has jurisdiction over a given matter, any such Town Agency or Official who is or may be an Enforcing Person with respect thereto. Each Town Agency or Official, who is or may be an Enforcing Person, is hereby given authority to adopt rules and regulations for the enforcement of this By-law within respective areas of their jurisdiction.

**Section 3:** An Enforcing Person taking cognizance of a violation of any By-law, rule or regulation may, as an alternative to instituting criminal proceedings, give the offender a written notice to appear before the Clerk of the Concord District Court for non-criminal disposition of the violation, in accordance with Section 21-D. The provisions of Section 21-D are incorporated by reference herein.

**Section 4:** Proceedings pursuant to this By-law and Section 21-D shall not be deemed to be criminal proceedings.

**Section 5:** Violation of the Town’s By-laws and regulations may be enforced in the manner provided in Massachusetts General Law, Ch. 40, § 21-D: for the purpose of this By-law section the specific penalty which is to apply for violations of each such section shall be as listed in the originating By-law and the Town Agency, Official, or employee whose titles are listed under those By-laws shall be deemed to be the Enforcing Person for each such section. If a By-law section fails to list an enforcing person, then the Police Chief or their designee shall be deemed to be the Enforcing Person.

TOWN OF MAYNARD

**BY-LAWS**

**CHAPTER 16**

**PUBLIC BUILDINGS**

**Section 1:** It shall be the duty of the Select Board to prosecute all parties who cut, mark, deface, defile or in any manner damage or injure any public property including public buildings, or any out buildings connected with said public buildings, or who may damage or injure any fence enclosing any land belonging to the Town.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 17

#### INSURANCE

**Section 1:** The Select Board shall be responsible for administering and attending to all matters pertaining to all insurance of the Town now or hereafter in force. Further, the Select Board, through the Town Administrator, is charged with seeking competitive bids in the best interest of the Town and further to appropriate and administers all necessary funds to accomplish this procedure.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 18

#### GENERAL

**Section 1:** No person shall publicly display the name of any street or other thoroughfare without the sanction of the Select Board, who shall notify the Police and Fire Departments and the Town Clerk.

**Section 2:** The provisions of this By-law regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles as defined in this By-law while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, protect the driver of such vehicle from the consequence of a reckless disregard of the safety of others.

**Section 3:** The Town, may in addition to whatever other powers it shall have over the control and repairs of private ways, appropriate money at a Town Meeting for the purpose of making repairs to private ways, to be used at the discretion of the Select Board when such repairs are required by public use, upon the following conditions:

- A. That such repairs shall include only the filling of holes in sub-surface of ways and repairs to the surface materials thereof with such materials as are similar to or the same as existing materials whenever practical. And shall allow leveling of the traveled way by mechanical means or otherwise and shall not include the resurfacing, permanent construction of reconstruction or any altering of existing grade beyond reasonable tolerances.
- B. The repair, installation, construction or reconstruction of drainage may be included.
- C. The Select Board shall specifically vote that such repairs are required by public necessity and convenience.
- D. No such repairs shall commence until a petition signed by the abutters who own fifty percent of linear footage of such way has been presented. The linear footage may be considered as any part of said way, however, on a corner lot having full access to an existing public way the first seventy feet of frontage on the private way will be exempt from computation of such footage.
- E. There shall be a betterment charge assessed to equal fifty percent of the total cost of said repairs performed.
- F. In no event shall the Town be liable for damages caused by making repairs under this section to any greater extent that if such repairs were done on a public way, nor subject itself to Section 25 of the Massachusetts General Law
- G. A cash deposit equal to fifty percent of the estimated total cost as determined by the

Select Board shall be deposited with the Town Treasurer/Collector before any such repairs shall commence.

**Section 4:**

A. Every dwelling, building, or structure, commercial or residential, whether existing on the date of adoption of this By-law or which may exist in the future, shall be assigned a street number by the Department of Public Works. The owner of such dwelling, building or structure shall be required to have assigned number posted on his property complying with the following conditions:

1. The number shall be at least four (4) inches in height and be of a contrasting color to the surface to which they are applied.
2. The numbers shall be clearly visible from the street or roadway upon which the building faces.
3. The numbers may be placed on the structure itself or on a suitable support near the entrance to the structure. If the numbers are placed on a roadside mailbox, numbers must be visible for approach from either direction.
4. It shall be the property owner's responsibility to obtain the correct number for the property from the assigning authority.
5. The expense for such numbering shall be borne by the owner of the property.
6. Street numbers may be changed as deemed necessary and appropriate by the assigning authority allowing thirty (30) days for compliance.
7. The owner of any structure affected by this By-law shall comply with its provisions within sixty (60) days of its passage at town meeting.

B. Compliance with this section by any owner may be enforced in the manner provided in Massachusetts General Law, Ch. 40 Section 21-D: for the purpose of this By-law section the specific penalty which is to apply for violations this section shall be as listed below and the Fire Chief, Fire Captains and/or Police Officers shall be deemed to be the Enforcing Person.

Penalty:	First Offense	- Written Warning with reasonable notice to correct
	Each Subsequent Offense	- \$100.00
	Each day that such violation continues shall constitute a separate offense.	

**Section 5:**

A. Any person or entity, having under his control any public or private way or improved or enclosed property used as off street parking areas for business, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has the right of access as invitee or licensee, shall be required to provide reserve parking spaces in said off street parking

areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by Section 2 of Massachusetts General Law Ch. 90; according to the formula provided in Ch. 40, Section 21, Paragraph 23 for all parking facilities in excess of fifteen (15) spaces.

- B. No person shall leave any unauthorized vehicles unattended within parking spaces designated for use by disabled veterans or handicapped people as authorized by Massachusetts General Law, Ch. 40, Section 21, Paragraph 23, or in such manner as to obstruct a curb ramp or any other access designated as a means of egress to a street or public way as provided for Ch. 40, Section 21, Paragraph 24, a fine of two hundred dollars (\$200) and shall provide for the removal of the vehicle in accordance with G.L. Ch. 40 Section 22D.

**Section 6:** The Fire Department shall maintain three shifts or tours of duty within the hours to be established by the Fire Chief.

**Section 7:** The minimum number of permanent members of the fire-fighting force of the Town on duty on any shift or tour of duty shall be four, excluding lunch or dinner periods.

**Section 8:**

- A. Except as permitted by license and the Select Board of the Town of Maynard (the Town) no person shall consume or possess in an open or unsealed container any alcoholic beverage, as defined in Ch. 138, Section 1 of the Massachusetts General Law, while in or upon any public property of the Town including, but not limited to the following areas:
  - 1. While in or upon any public way to which the public has a right of access;
  - 2. While in or upon any grounds or buildings owned by, in the exclusive possession of or under the control of the Town;
  - 3. While in or upon any motor vehicles traveling or remaining stationary in any public areas of the Town referred to herein.

Such public consumption shall be allowed upon any privately owned or possessed land in the Town either by the owner or person in control of the land or with the consent of such owner or person in control.

- B. Should a violation of this By-law occur in the presence of a Police Officer of the Town, such officer shall have the authority either to arrest such alleged offender without a warrant or to summons such alleged offender to court.
- C. A fine of not more than three hundred dollars (\$300) shall be imposed upon a person cited by the Police Department of the Town for a violation of this By-law.

**Section 9:**

- A. No person shall fire or discharge any firearms or explosive of any kind within the limits of any highway or other public property except with the consent of the Select Board, and any other appropriate public authority; or any private property, except with the written consent of the owner or legal occupant thereof.

- B. Furthermore, no person shall fire or discharge within the limits of the Town of Maynard, except on a range or in an area designed for such purpose and approved by the Chief of Police in writing, any rifle or revolver of twenty-two (22) caliber or larger. Nothing in this By-law shall prohibit the protection of one's property or use of the firearms by police or other law enforcement officers. Penalty for the violation of any provision shall be a fine of not more than three hundred dollars (\$300).

**Section 10:** Fines for By-law violations anywhere they appear in the Maynard By-laws are set at a maximum not to exceed three hundred dollars (\$300).

**Section 11:** The Town through the Sealer of Weights and Measures shall charge and collect a fee for Sealing Weights and Measures in the Town of Maynard pursuant to Massachusetts General Law, Ch. 98, § 56. The fee schedule for sealing of weights & measures will be set and adjusted as necessary by the Select Board.

**Section 12:** In accordance with Ch. 639 of the Acts and Resolves of 1950, as amended, known as the Civil Defense Act authorizes the establishment of a local Civil Defense Agency within the Town of Maynard.

**Section 13:** Inspector of Gas Piping and Gas Appliances shall enforce the rules and regulations established by Massachusetts General Laws, Ch. 25, Section 12H, inserted by Section 1 of Ch. 737 of Acts of 1960 and amendments thereto.

**Section 14:** Commencing July 1, 1994, the Select Board of the Town shall by majority vote annually appoint a Tree Warden for the Town and thereafter fill any vacancy occurring in that office, such Tree Warden to have the usual statutory authority, duties and powers of tree wardens in the Commonwealth of Massachusetts, as well as the authority, duties and powers voted to the Tree Warden by action of annual or special town meeting of the Town.

**Section 15:** It is unlawful to keep any domestic farm animals defined as goats, sheep, pigs or cows on any Residential property less than one acre in size.

TOWN OF MAYNARD

**BY-LAWS**

**CHAPTER 19**

**SECOND-HAND RETAILERS**

**Section 1:** No person shall carry on the business in the purchase, sale or barter of junk, old metals or second hand articles within the Town unless first duly licensed thereof by the Select Board.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 20

#### SOLICITATION

**Section 1:** It shall be unlawful for any “solicitor” or “canvasser” (as defined herein) to engage in door to door solicitation activity within the Town of Maynard without first obtaining a permit therefore in compliance with the provisions of this By-law. This By-law shall not apply to any person or organization exempted or duly licensed under Ch.101 or any other provision of Massachusetts General Law or listed on the Exemption List of the Chief of Police. This By-law shall not be construed to prevent route salesmen or similar business persons having an established customer base to which they make periodic deliveries, from calling upon existing or prospective customers to obtain orders for future route deliveries.

**Section 2:** A “solicitor” or “canvasser” is defined as any person who, for himself, or on behalf of another person, firm, corporation or other entity travels by foot or any other means from one location to another, taking or attempting to lease or take orders for the sale of goods, wares, merchandise, or services. Regulated activity shall include, without limitation, the selling, distributing, or soliciting orders for magazines, books, periodicals or other articles of commercial nature, contracting for home improvements, or for future services, whether such individuals has, carries or displays a sample of the subject of such sale and whether or not such person is collecting advance payment on such sales.

**Section 3:** Applicants for a permit shall file an application with the Chief of Police or his designee, on a form by the Police Department, signed under the penalties of perjury by the applicant and containing the following minimum information:

- a. Name of applicant.
- b. Address of applicant (local and permanent home address).
- c. Applicant’s height, weight, eye and hair color
- d. Applicant’s social security number
- e. The time period for which the right to canvass or solicit is desired.
- f. A brief description of the nature of the business and the goods to be sold.
- g. The name and home office address of the applicant’s employer and if he applicant is self-employed, it shall be so indicated.
- h. A 2” x 2” photograph of the applicant showing the head and shoulders of the applicant in a clear and distinguishing manner:
- i. If operating a motor vehicle: the hear, make model, motor number, registration number, State of Registration, vehicle’s owner and address.
- j. Such other information as the Chief of Police may reasonably require from time to time.

Each applicant shall pay an application fee of twenty-five (\$25.) dollars upon submission of the application.

**Section 4:**

- A. Upon receipt of an application, the Chief of Police shall investigate the applicant's reputation as to morals, integrity and other matters deemed relevant in the discretion of the Chief.
- B. Within seven (7) business days of the filing of an application, the Chief of Police shall endorse on such application his approval or disapproval. Failure of the Police Chief or his designee to act within seven (7) business days of receipt of an application shall constitute disapproval. If disapproved, the applicant shall have the right of written appeal to the Select Board within seven (7) calendar days of any denial or disapproval of the Chief of Police. The Select Board must act upon the appeal at one of their next two regularly scheduled meetings with due written notice provided to the applicant of the time, date and location where such appeal will be heard. Failure to decide any appeal within this period shall be deemed to be approval of an application resulting in issuance of a Permit.
- C. Such permit shall contain signature of the Chief of Police or the Select Board (if disapproval by the Chief has been overturned and the permit issued by the Board), and shall show permit number, the name, address, and photograph of the permit holder, the date of issuance and the length of time for which such permit shall be effective. The Police Department shall keep written records of all permits issued. When soliciting or canvassing, all solicitors must display at all times in plain view on an outer garment an identifying badge issued by the Police Department. Each solicitor must possess an individual permit.

**Section 5:** The police officers of the Town of Maynard shall enforce this By-law. No permit may be transferred or assigned by a permit holder.

**Section 6:** The Chief of Police is hereby vested with jurisdiction to revoke permits for what he deems to be just cause. Any person aggrieved by revocation of a permit may appeal to the Select Board within seven (7) business days of revocation. A hearing on such revocation will be scheduled for one of the next two regularly scheduled meetings of the Select Board, with due written provided to the permit holder of the time, date and location where such appeal will be heard. The Select Board will issue a written decision no later than fourteen (14) days following the conclusion of any appeal hearing.

**Section 7:** Each permit issued under the provisions of this By-law shall be effective from the date of issue until the thirty-first (31<sup>st</sup>) day of December following the date of issue, unless sooner revoked or unless permit clearly indicated on its date a shorter effective period.

**Section 8:** A permit issued under the provisions of this By-law may be renewed by the Chief of Police only upon personal application for renewal by the permit holder; all applications for renewal shall contain the minimum information required to obtain an initial permit.

**Section 9:**

- A. No solicitor or canvasser, whether licensed or exempted from license, may misrepresent in any manner, the buyer's right to cancel as stipulated by Ch. 93, 93A and 255D of the Massachusetts General Laws, as amended from time to time.

- B. No solicitor or canvasser, whether licensed or exempted from license, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office, or other establishment with the purpose of making a sale of consumer goods or services.

**Section 10:** It shall be unlawful for any canvasser or solicitor to enter the premises of a resident or business displaying a "no trespassing" or "no soliciting" sign or poster; or to ignore a resident or businessperson's "no solicitation" directive; or remain on private property after the owner has indicated that the canvasser or solicitor is not welcome.

**Section 11:** Any person violating any provision of this By-law/ordinance shall, upon conviction thereof, be punished by a fine not to exceed fifty (\$50.) dollars for each and every offense.

**Section 12:** The invalidity of any part or parts of this By-law shall not affect the validity of the remaining parts or in any way act thereon.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 21

#### NUISANCES

##### **General**

**Section 1:** Violation of sections of Chapter 21 may be enforced in the manner provided in Massachusetts General Law, Ch. 40, § 21-D; unless otherwise noted, the Police Chief or its designee shall be deemed the Enforcing Person and the specific penalty which is to apply for violations of the specific section shall be listed in that section.

**Section 2:** All sections and subsections of this By-law shall be considered separable so that if any should at some time be found void or unenforceable by a court of law, the remainder shall remain in full force and effect.

##### **All Public Areas**

**Section 3:** No person shall place or cause to be placed in any public place, street, or private way, or in any running stream or body of water, dirt, rubbish, wood, timber or other materials tending to cause obstruction nor deposit ashes, garbage, waste, paper, carrion, filth, or offal, except in such places as shall be permitted by the Board of Health. The specific penalty which is to apply for violations of this section shall be as listed below and the Health Officer and/or Police Chief or its designee shall be deemed to be the Enforcing Person.

Penalty:           1<sup>st</sup> Offense – Written Warning  
                      2<sup>nd</sup> Offense - \$ 50.00  
                      3<sup>rd</sup> Offense - \$100.00  
                      And each day thereafter.

**Section 4:** No person shall bathe, swim in any waters within the town in a state of nudity in places exposed to public view, or in the immediate sight of the occupant or occupants of any dwelling house, shop, factory, under a penalty of fifty dollars (\$50) for each offense.

**Section 5:** No person shall resort to or frequent any schoolhouse grounds or enclosure in the Town to interfere with or annoy any persons lawfully using or enjoying same; nor shall any person resort to or frequent any public cemetery or graveyard in the Town and there engage in or be present at any game of cards or other sport, or lounge or loiter therein to the annoyance or interference of persons properly visiting or resorting to said places, under penalty of one hundred dollars (\$100) for each offense.

##### **All Public Ways**

##### **Section 6:**

- A. No person shall construct or maintain any drain or conduit carrying polluted water from any house, shop or other building, or from any vault, cesspool, cistern, to or upon any street or way so as to discharge water or other matter in or upon any such street or way except when permitted in writing to do so by the Board of Health, under a penalty

of three hundred dollars (\$300). The Health Officer and/or Police Chief and its designee shall be deemed to be the Enforcing Person.

- B. Whoever violates the provisions of the this section and allows any material so placed to remain in such public place, street, or private way for more than twenty-four hours, shall be liable to line penalty for each additional day thereafter, during which he shall suffer such material to remain in such public place, street or private way.

**Section 7:** No person shall pasture or tether any animal in any street in the Town in such a manner as to obstruct the street or sidewalk under penalty of fifty dollars (\$50).

**Section 8:** No person, except an authorized agent of a town department, shall break or dig up or aid in breaking or digging up the ground in any street or square in the Town without a permit from the Select Board, under a penalty of three hundred dollars (\$300) for each offense. The DPW or an authorized agent of DPW and/or the Police Chief or its designee shall be deemed to be the Enforcing Person.

**Section 9:**

- A. with or use a bow and arrow, firearm, air-gun, or sling, in or across any of the public ways of the Town;
- B. nor obstruct any street in the Town;
- C. nor take hold of, nor ride upon, the hind part of any carriage, or other vehicles;
- D. nor join in any assemblage or group in the street, or on any sidewalk in town to the annoyance of passengers, or so as to obstruct the free passage of passengers; without a No person shall throw stones, snowballs, sticks or other projectiles nor kick a football, nor play any game in which a ball is used, nor fly any kite or balloon, nor shoot permit;
- E. nor drive, wheel or draw any coach, cart, or other carriage of burden or pleasure, except children's carriages drawn by hand upon any sidewalk in the Town,
- F. under a penalty of twenty dollars (\$20) for each offense.

**Section 10:** No person shall coast or skateboard upon any sidewalk inside of the business district, street, public way or any other Town owned land except such areas as designated by the Select Board each year through public notice and the Assabet River Rail Trail. Persons shall be permitted to coast or skateboard upon any sidewalk outside of the business district but shall yield the right of way to pedestrians and give an audible signal before overtaking and passing any pedestrian. Penalty for each offense as cited by the Maynard Police Department shall be twenty dollars (\$20).

**Section 11:** No person shall operate a motorized scooter, motorized skateboard, other similar motorized vehicle on any public way, sidewalk, playground, or on any property owned by the Town of Maynard. The following vehicles shall be exempt from the provisions of this By-law, unless operating in an unsafe manner:

- A. Vehicles registered and/or licensed by the Commonwealth of Massachusetts as motor vehicles
- B. Vehicles used by handicapped persons,
- C. Landscaping equipment
- D. Golf Carts only on the Maynard Golf Course property.

Penalty for each offense as cited by the Maynard Police Department shall be one hundred dollars (\$100) for each offense.

**Section 12:** Streets may be blocked or protected by barriers and any unauthorized person or persons moving such barriers shall be subject to a fine of three hundred dollars (\$300) for each offense.

**Section 13:** No person shall move or assist in moving any building over any public street or way without written permit of the Select Board being first obtained, or having obtained such permit, without complying with the restrictions and provisions thereof, under a penalty of three hundred dollars (\$300) for each offense.

**Section 14:** Any person, who intends to erect, alter, repair or take down any building, or part thereof, on land abutting on any street or public place in this Town and desires to make use of such street or place for the purpose of placing thereon building materials or rubbish, shall give notice thereof to the Select Board. Thereupon the Select Board may grant a permit to occupy such a portion thereof to be used for such purposes as in their judgment the necessity of the case demands and the security of the public allows; such a permit to run for not longer than sixty (60) days and to be on such conditions, and by furnishing such security, by bond, or otherwise, for the observance and performance of the conditions and for the protection of the Town, as the Select Board may require and especially in every case upon conditions that during the whole of every night, from sunset in the evening until sunrise in the morning, proper lights shall be placed as effectively to secure all travelers from liability to injury. Such permits may be renewed at the discretion of the Select Board. Whoever violates the provisions of this section shall be liable to a penalty of three hundred dollars (\$300) for each offense. The Building Commissioner or its designee and/or the Police Chief or its designee shall be deemed to be the Enforcing Person.

**Section 15:** No person or persons shall place or cause to be placed in or on any public street, or sidewalk, snow which may be a hindrance to pedestrians or vehicular traffic. Whoever violates the provisions of this section shall be liable to a penalty listed below.

Penalty:	1 <sup>st</sup> Offense – \$100.00
	2 <sup>nd</sup> Offense - \$200.00
	3 <sup>rd</sup> Offense - \$300.00
	And each offense thereafter

**Section 16:** The Director of Public Works or other officer having charge of ways, for the purpose of removing or plowing snow or removing ice from any way, is hereby authorized to remove or cause to be removed to some convenient place, including in such term of public garage, any vehicle interfering with such work, and the cost of such removal and of the storage charges, if any, resulting there from, shall be borne by the owner of such vehicle. The Director of Public Works or its designee and/or the Police Chief or its designee shall be deemed to be the Enforcing Person.

**Section 17:**

- A. No person shall ride a bicycle, moped, motorized bicycle or motorcycle on any sidewalk in the Town of Maynard, except that a bicycle may be ridden on a sidewalk

outside of the business district when necessary in the interest of safety but shall yield the right of way to pedestrians and give an audible signal before overtaking and passing any pedestrian. Class-2 electric bicycles are allowed on the Assabet River Rail Trail. Any person who violates the provisions of this section shall be punished by a fine of twenty dollars (\$20) for each violation. A bicycle operated by a person under the age of eighteen (18) years in violation of this section may be impounded by the Police Department for period not to exceed fifteen (15) days.

- B. Operation of bicycles on public ways shall be subject to the following regulations:
1. Operators riding together shall not ride more than two abreast but must ride single file to facilitate passing traffic.
  2. The operator shall not ride other than or astride a permanent and regular seat attached to the bicycle.
  3. The operator may not carry a passenger anywhere on their bicycle except on permanent and regular seat attached to the bicycle or in a trailer towed by the bicycle, or except as noted in 4 below
  4. The operator may not carry any child between the ages of 1 to 4, or weighing 40 pounds or less, anywhere on a single-passenger bicycle except in a baby seat attached to the bicycle. The child must be able to sit upright in the seat and must be held in the seat by a harness or seat belt. Their hands and feet must be out of reach of the wheel spokes.
  5. The operator may not carry any child under the age of 1 on a bicycle, even in a baby seat; this does not preclude carrying an infant in a trailer.
  6. The operator shall park its bicycle upon a way or sidewalk in such a manner as not to obstruct vehicular or pedestrian traffic.
  7. The operator shall not permit the bicycle to be drawn by any other vehicle. The operator shall not tow any other vehicle or person, except for a trailer designed for such purpose.
  8. The operator shall not carry any package, bundle, or article except in or on a basket, rack, trailer, or other device designed for such purposes. The operator shall keep at least one hand upon the handlebars at all times.
  9. No bicycle shall be operated in a way with handlebars so raised that the operator's hands are above his shoulders while gripping them. Any alteration to extend the fork of a bicycle from the original design and construction of the bicycle is prohibited.
  10. No person shall operate a bicycle upon any street or way in such a manner as to obstruct vehicles using the street or way.

## **Public Ways Sidewalks**

**Section 18:** In its sole discretion, the Select Board may grant a license to a business establishment for the temporary use of a portion of a sidewalk immediately adjoining that business establishment. The Board may adopt reasonable rules and regulations related to the issuance of such license, including fees to be paid therefore and the conditions to be satisfied by any applicant for such a license.

## **Section 19:**

- A. In its sole discretion, the Select Board may grant a license to an establishment operated for the sale of food or beverages, either alcoholic or non-alcoholic, to place one or

more tables on a portion of a sidewalk immediately adjoining that business establishment, such tables to be used only for the use and enjoyment of its business clientele. Any such license shall be granted upon such terms and conditions as the Board may impose, including the designation of a sidewalk area with which all tables must be located.

- B.** Any such license shall have duration of no more than one year from the date of issue and may restrict the location of such tables on a sidewalk to designated periods of time during the license period. Any business establishment placing tables on any sidewalk without first being licensed by the Board shall be in violation of this By-law and assessed a penalty of one hundred dollars (\$100) for each offense.
- C.** The Board may adopt reasonable rules and regulations related to the issuance of such licenses, including the fees to be paid therefore and the conditions to be satisfied by any applicant for such a license.

## **Unregistered Motor Vehicles**

### **Section 20:**

- A.** Unregistered motor vehicles which are unfit for use, permanently disabled or have been dismantled, or are otherwise inoperative, shall not be stored, parked, or placed upon any land in the Town unless the same shall be within a building or in an area unexposed to the view of the public and abutters or in an area properly approved for the keeping of same by licensed junk dealers and automobile dealers. The fine for any violation of the provisions of this By-law shall be one hundred dollars (\$100) for each offense. Each day that such violation continues shall constitute a separate offense.
- B.** Each owner or person responsible for the presence of a motor vehicle described in Section 21A, excepting therefrom any motor vehicle with intrinsic value as an Antique Motor Car, as defined in the Massachusetts General Law, Ch. 90, § 1, shall be subject to the following procedure regarding removal or enclosure of such motor vehicle:
  - 1.** Any resident of the Town of Maynard who wishes to file a formal written complaint regarding the presence of such motor vehicle on property located within the Town of Maynard must file such complaint with the Select Board and shall be granted a hearing before the Select Board within fourteen (14) days of receipt of the written complaint.
  - 2.** The Select Board shall make a final decision based upon matters presented at such hearing and may, at their option, require or order any one or more of the following:
    - a.** That the owner or person responsible be compelled to remove the motor vehicle from the premises within a stated period.
    - b.** That the owner or person responsible places the motor vehicle within a proper enclosure suitable to remove it from public view.
    - c.** Any further remedy that may be justified by the circumstances presented at the time of the hearing.
- C.** In the event of non-compliance with an order or directive of the Select Board within five (5) days of receipt of such order by the owner or person responsible, the Police

Department shall be authorized to tow or remove the subject motor vehicle by whatever means necessary at the expense of such person.

## **Unattended Motor Vehicles**

### **Section 21:**

- A. No person shall leave unattended any motor vehicle so that any portion of said vehicle is on or protruded over or within the limits of a private way, furnishing means of access for fire apparatus to any building.
- B. For the purpose of this By-law only, the registered owner shall be considered the person responsible for leaving such vehicle unattended, unless it is otherwise determined that another identified person did so because the vehicle is unattended.
- C. Notwithstanding any other provision of the By-law the Town of Maynard, to the contrary, any person violating this By-law shall be punished by a fine of three hundred dollars (\$300).

## **Minimum Property Standards of Residential Properties**

### **Section 22:**

- A. Authority and Purpose. Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution, and the specific powers granted by Massachusetts General Law, Ch. 139, § 1-3A, this By-law is adopted for the prevention of future nuisances and the removal of existing nuisances within the Town, which nuisances constitute a hazard or blight, or adversely affect property values.

- B. Definitions

Blight -Any condition seriously impairing the value, integrity, strength, durability, or appearance of real property.

Building -A structure, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected, or framed of a combination of any materials, to form shelter for persons, animals, or property. See “structure” below.

Dilapidated - In a condition of decay or partial ruin by reason of neglect, misuse, or deterioration. The term includes, but is not limited to:

Having deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken or inadequately secured windows or doors;

Having defective weather protection (e.g., paint) for exterior wall coverings; deleterious weathering due to lack of such paint or other protective covering.

Interested Parties - In connection with the notification requirements of this By-law, interested parties are the Building Commissioner, the owner(s) of property which is subject of a hearing; owners of land directly opposite the subject property on any public or private street or way, abutters of the subject property, and abutters of abutters within 300 feet of the property line of the subject property. Ownership of land shall be determined by the most recent tax list.

Nuisances - Any substantial interference with the common interest of the general public in the maintenance of decent, safe, and sanitary structures and neighborhoods,

when such interference results from the hazardous or blighted condition of private real property. Specific conditions which may be characterized as nuisances may include, but shall not be limited to:

- (a) burnt structures not otherwise lawfully habitable or usable
- (b) dilapidated structures
- (c) dangerous or unsafe structures
- (d) overgrown vegetation which may harbor rats and vermin, conceal pools of stagnant water or other nuisances, or which is otherwise detrimental to neighboring properties or property values
- (e) dead, decayed, diseased, or hazardous trees, debris, or trash

Owner - The person with the record title to the property, or his authorized agent, assign, or representative.

Structure - A combination of materials assembled at a fixed location to give support or shelter such as a building (see above) framework, retaining wall, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, or mast for an antenna, or the like.

#### C. Administration

1. Removal Order. The Building Commissioner shall, on his own initiative or upon written complaint, inspect any condition which may constitute a nuisance. If, in his opinion, the condition does constitute a nuisance, he shall make a written report to the remedial action, and shall file a copy of the petition with the Town Clerk.
2. Upon receipt of such petition and report, the Select Board shall set a date for a hearing before said Board, not more than 30 days after the date of filing of the petition with the Town Clerk. Notice of said hearing shall be posted, published, and sent to interested parties not less than 14 days before the date of said hearing. Notice of the hearing shall state the subject matter sufficient for proper identification and the date, time, and place of hearing and shall be made in the following manner:
  - a. Posting of the notice on the property on which the alleged nuisance exists.
  - b. Publication of the notice in a newspaper of general circulation in the Town of Maynard.
  - c. Mailings by regular mail, postage prepaid, to the addresses of interested parties. Within seven days of the hearing, the Select Board shall determine whether or not the condition constitutes a nuisance, and shall determine what action shall be taken by the owner to remove the nuisance. Such actions may include, but shall not be limited to: demolition or repair of the structure, or the removal of vegetation, trees, debris or trash. The Select Board shall issue a Removal Order to the owner to abate such nuisance within 24 hours after service of the Order or within such other time as it considers reasonable. An owner shall forfeit twenty dollars for every day during which he willfully violates such a Removal Order.

- D. Service of Removal Order. In accordance with Massachusetts General Law, Ch. 139, § 1, the Town Clerk shall deliver a copy of the Removal Order to an officer qualified

to serve civil process, who shall forthwith serve an attested copy thereof. Such a Removal Order shall be in writing, and shall be served on the owner in the manner specified by Massachusetts General Law Ch. 111, § 124.

- E. Removal of Nuisance by Select Board. If the owner fails to comply with such a Removal Order, the Select Board may cause the nuisance to be removed and all expenses incurred thereby shall constitute a debt due the Town upon completion of the removal and the rendering of an account therefore to the owner, and shall be recoverable from such owner in an action of contract. Any such debt shall constitute a lien on the land upon which the nuisance was located. The Select Board shall follow the procedures relative to liens provided in Massachusetts General Law Ch. 139, § 3A.
- F. Appeal to Superior Court. In accordance with Massachusetts General Law, Ch. 139, § 2, a person aggrieved by such an order may appeal to the superior court for the county where such building, property, or structure is situated, if, within three days after the service of the attested copy of the Removal Order upon him, he commences a civil action in such court.

# **TOWN OF MAYNARD**

## **BY-LAWS**

### **CHAPTER 22**

#### **LOITERING**

##### **Section 1:** Definitions as used in this By-law:

- A. "Loitering" shall mean remaining idle in essentially one location and shall include but shall not be limited to, the concept of spending time idly; to be dilatory; to linger; to stay; to delay; to stand around and shall also include the colloquial expression "hanging around".
- B. "Public Place" shall mean any place to which the general public has access and a right to use for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to use by the public. It shall also include but shall not be limited to the front or surrounding area of any store, shop, restaurant, tavern or other place of business, and all public parking facilities, public grounds, areas or parks.

##### **Section 2:**

- A. It shall be unlawful for any person to Loiter, either alone or in concert with others in a Public Place in such manner so as to:
  - 1. Obstruct any public street, public highway, public sidewalk or any other Public Place or building by hindering, disrupting or impeding the free and uninterrupted passage of vehicles, traffic or pedestrians.
  - 2. Commit in or upon any public street, public highway, public sidewalk or any other Public Place or building, any act which is an obstruction to or interference with the free and uninterrupted use of property or any business lawfully conducted by anyone in or upon facing or fronting on any public street, public highway, public sidewalk or any other Public Place or building, all of which prevents or inhibits the free and uninterrupted ingress and egress, thereon and thereto.
- B. When any person or persons cause or commit any of the actions enumerated in Subsection (a) hereof, a police officer or any law enforcement officer shall order such person or persons to stop causing or committing such actions and to move on or disperse. Each person or persons who fail or refuse to obey such order shall be guilty of a violation of this By-law.
- C. Each person who violates any provisions of this By-law shall be subject to a fine not exceeding three hundred dollars (\$300). Any such violation shall constitute a separate offense on each successive day continued.

- D. The Police Department, the Department of Public Works, the School Committee, the Conservation Commission, the Select Board and any other board, authority or commission, however constituted or defined, having property under its direction, control or otherwise subject to its disposition, shall have the authority to adopt and implement rules and regulations to carry out the purpose and intent of this By-law.

TOWN OF MAYNARD

**BY-LAWS**

**CHAPTER 23**

**MECHANICAL GAMES**

**Section 1:** Definitions: As used by this By-law, the following words shall have the following meaning:

- A. **“MECHANICAL GAME”** shall mean any machine, apparatus, device or mechanism used or designed for entertainment which may be operated, set in motion, released or played by activation of a button or switch or by placing or depositing therein any coin, check, slug, token, ball or any other article which would cause it to be activated for use. This definition includes but is not limited to any variety of pinball machines, electronic video games, automatic amusement devices (as defined in Ch.140, Section 177A of the Massachusetts General Law) or any other similar machine or devices. This definition does not include coin operated juke boxes, amusement rides, pool, billiards, bowling alleys or any device maintained within a private residence for the use of occupants thereof and their guests.
- B. **“BOARD”** shall mean the Select Board of the Town of Maynard.
- C. **“TOWN”** shall mean the Town of Maynard.
- D. **“LICENSE”** shall mean a Mechanical Game License granted by the Board permitting the operation of a Mechanical Game within the Town.
- E. **“PERSON”** shall mean any corporation, association, syndicate, joint stock company, partnership, club, society or individual.
- F. **“GAMEROOM”** shall mean any building, structure, store, amusement center, club, hall, place or premises containing three (3) or more Mechanical Games.
- G. **“SCHOOL”** shall mean any educational institution, public, private, secular, or parochial which offers instruction of high school grade or below and which is accredited by the State Department of Education.

**Section 2:**

- A. No person shall maintain, keep, operate or offer for operation a mechanical Game in the Town without first receiving a valid license from the Board pursuant to this By-law.
- B. Application for a license (herein after the “Application”) shall be filed with the Board. Once an application has been submitted, the Board will schedule and publish notice of a public hearing (at the expense of the Applicant) and will notify the Applicant of time

and location of hearing.

- C. Standard application forms must be obtained from the Board. Each application will include the following information:
  - 1. Location of the premises where the games are located, including street and number.
  - 2. The number and location of all entrances to and exits from the premises.
  - 3. A visual plan of the premises.
  - 4. The type of establishment where the games are located.
  - 5. The exact location and number of machines to be licensed.
  - 6. The name of the person(s) owning and/or operating the premises; and
  - 7. The specific type and number of Mechanical Games being licensed.
- D. At the time of Application or any renewal thereof, each Applicant must pay a licensing fee of twenty dollars (\$20) per machine. The fee for any license issued after January 31 in any year will be prorated on the basis of the number of months in each calendar year for which the License will be effective.

### **Section 3:**

- A. Applications will be acted upon by the Board within twenty-one (21) business days after public hearing on the Application. The Board will give written notification to the Applicant of its decision.
- B. Each license shall contain the following information:
  - 1. The premises where the Mechanical Games is to be located, including the street and number.
  - 2. The name of the person to whom the License has been granted (herein after the "Licensee").
  - 3. The effective dates of the License.
  - 4. The type of Mechanical Game to which it relates; and
  - 5. The signature of at least three (3) Board members.
- C. Once granted, each license must be kept on the premises where the licensed machine is located and a current sticker, as issued by the Board, must be affixed to the machine to which it pertains and must be in open view and available for inspection at all times.

- D. No license (1) is transferable by the Licensee; (2) authorizes the presence of a Mechanical Game in any location other than the Licensed premises; (3) authorizes the operation of any Mechanical Game other than the game described in the License; and (4) applies to more than one Mechanical Game.
- E. The license, unless sooner revoked or cancelled pursuant to this By-law, expires on December 31 of each year and must be reapplied for by any person on an annual basis.
- F. Upon written request to the Board or upon its own initiative, the Board from time to time may amend any license. Licenses may be revised to reflect a change in the premises where the Mechanical Game is located and the fee for every such change is two dollars (\$2), payable on the receipt of the revised license.

#### **Section 4:**

- A. No person maintaining, owning or operating any game room may permit any minor under eighteen (18) years of age to play, operate or use any Mechanical Game after 10:00 p.m. unless such minor is accompanied by and under the supervision of a parent or legal guardian over the age of twenty-one (21).
- B. Minor are further prohibited from play, use and/or operation of any Mechanical Game between the hours of 7:00 a.m. and 3:00 p.m., during the Town's academic school year, with the exception of school holidays, Saturdays and Sundays.

**Section 5:** No person may allow, cause or otherwise permit a Mechanical Game to be located, operated or maintained within one thousand five hundred (1,500) feet of the nearest public or private street entrance to or exit from any public playground or school, or publicly owned or leased housing project containing more than three (3) living units intended for occupancy by elderly or handicapped persons, nor within three hundred (300) feet from any residential zone, such distances are to be measured along or across said street or streets owned or leased housing project. These restrictions do not apply to any Mechanical Game lawfully in existence and operating prior to the effective date of this By-law.

#### **Section 6:**

- A. Any person who owns, operates, keeps, maintains or controls any Game room must maintain good order upon the licensed premises at all times. Lack of good order on the licensed premises may be grounds for revocation, modification, cancellation or suspension of any license.
- B. The possession, consumption or sale of alcoholic beverages or any controlled substance (the possession of which is prohibited by Massachusetts General Law), is strictly prohibited in any Game room or upon the premises where the Game room is located unless prior written approval of the Board has been obtained by the Applicant.
- C. No credit, allowance, check, slug, token or anything of value may be offered or given to any player of any Mechanical Game as a result of plays made thereon. No cash award may be offered or given in any contest, tournament, or league relating to any Mechanical Game, and no such game is permitted to operate if it delivers or may be

readily converted to deliver to the player any piece of money, coin, slug or token.

**Section 7:** If any portion of this By-law is held to be unconstitutional or invalid for any reason by a court of competent jurisdiction, such decision will not affect the validity or effectiveness of any remaining portions of this By-law.

**Section 8:** When any premises located within the Town containing a Mechanical Game is open for the transaction of business, such location is subject to inspection.

**Section 9:**

- A. Any person who violates any provision of this By-law or causes or permits any condition to exist in violation of any of the provisions hereof will be guilty of an offense punishable by a fine of no more than three hundred dollars (\$300). Each day that a violation exists or continues to exist constitutes a separate offense.
- B. Any such violation may be grounds for immediate revocation, cancellation, modification or suspension of the license by the Board and the licensed premises may be deemed to be a public nuisance and abated by the Town as such. At its discretion, the Board may elect to hold a public hearing on such violation.

**Section 10:** The Board reserves the right to alter, amend or modify any of the rules or regulations promulgated pursuant to this By-law.

**Section 11:** Nothing contained in these regulations will be construed to affect, alter, or impair any existing By-laws of the Town, or other regulations or any provision of the Massachusetts General Laws.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 24

#### DOG OWNER'S RESPONSIBILITY LAW

##### **Section 1: Licensing**

###### **A. Three or fewer dogs.**

1. Every dog (6) months old or older kept in the Town of Maynard shall be duly registered, numbered, described and licensed on an annual basis. The annual licensing period runs from January 1 through December 31.
2. Every person who becomes owner or keeper of such a dog shall, within thirty (30) days of its becoming six (6) months old or thirty (30) days of becoming its owner or keeper, whichever shall last occur, shall obtain such license from the Town Clerk. The Owner or Keeper shall submit an application on the form proscribed along with proof of rabies vaccination, notarized letter from a licensed veterinarian stating that the dog has been vaccinated, or Board of Health Declaration that the dog is exempt from the vaccination requirement to the Licensing.
3. The registering, numbering, describing and licensing of a dog shall be done by the Town Clerk, and shall be subject to the conditions expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing livestock, fowls or wildlife.
4. The owner of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable materials, to which shall be securely attached a tag on a form proscribed and distributed by the Town Clerk when a license is issued. Such tag shall state "Town of Maynard," the year of issue and tag number. The Town Clerk shall maintain a record of the identifying numbers.
5. If any such tag is lost the owner shall secure a substitute tag issued by the Town Clerk.
6. The Town Clerk shall not grant any license until and unless a current rabies vaccination certificate or Board of Health Declaration that the dog is exempt from the vaccination requirement for the animal has been presented.
7. A transfer license from another location in Massachusetts shall be granted upon application provided that adequate proof is presented to the Town Clerk at the time of application. Such application shall occur within thirty (30) days of establishing residency within Maynard.
8. The annual fee for every dog license, except as otherwise provided by law, shall be ten dollars (\$10.00) for neutered/spayed, fifteen dollars (\$15.00) for intact.

###### **B. Four or more Dogs:**

Any person maintaining a Commercial Boarding or Training Kennel, Commercial Breeder Kennel, Domestic Charitable Corporation Kennel, Personal Kennel, or Veterinary Kennel, upon application shall be issued a kennel license. Prior to the issuance of a kennel license, the Animal Control Officer or Animal Inspector may

inspect the proposed facilities to insure they comply with any rules and regulations as they may relate to Kennels.

1. An owner or keeper of less than four (4) dogs, three (3) months old or older, who does not maintain a Kennel may elect to secure a Kennel license in lieu of licensing each dog individually, provided however that such owner or keeper shall be subject to all provisions of this bylaw relating to the maintenance, operation and licensing of Kennels as if he or she were maintaining a Kennel.
2. The Animal Control Officer may at any time inspect any Kennel located in the Town of Maynard.
3. Petitions or complaints against any such Kennel shall be filed with the Select Board. The Board, as well as the Town Administrator, shall have investigatory powers over any such petitions or complaints. Said investigation shall be conducted by the Town Administrator who, within seven days after the filing of such petition or complaint, shall give notice to all parties of interest of a public hearing to be held before the Select Board-within fourteen (14) days after the date of such notice. After such public hearing the Board may make an order either revoking or suspending such kennel license or otherwise regulating such Kennel, or dismissing said petition. Within ten days after receipt of such order, the holder of such license may bring a petition in the district court as outlined in G.L. c. 140, § 137C. Any person maintaining a Kennel after the license has been revoked, or while such license is suspended shall be punished as set forth in the penalty provision of this bylaw.
4. A kennel license shall be in lieu of any other license for a dog kept at a Kennel during any portion of the period for which the kennel license is valid. A kennel licensee shall cause each dog kept in its Kennel to wear, while it is at large, a collar or harness of leather or other suitable material, to which a tag shall be securely attached. Such tags shall be provided to the kennel licensee by the Town Clerk and shall state "Town of Maynard," the year of issue and kennel license number.

C. Waiver of fees:

1. No fee shall be charged for a license for a dog owned by a person aged 70 years or over.
2. No fee shall be charged for a license issued for a service animal as defined by the Americans with Disabilities Act (ADA). Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

D. Late fees: All owners or keepers of dogs kept in the Town of Maynard during the preceding six (6) months and who, on the first day of March of each year, have not

licensed said dog or dogs, as prescribed by Section 173, Ch. 140 of the Massachusetts General Laws, shall be required to pay a fee of \$25.00 for each said unlicensed dog over and above any other applicable licensing charge or penalty to the Town. This fee is not subject to waiver.”

**Section 2:** No person shall own or keep in the Town any dog which by biting, excessive barking, howling or in any other manner disturbs the quiet of the public.

**Section 3:** If any person shall make a complaint in writing to the Animal Control Officer that a dog owned or harbored within the officer’s jurisdiction is a nuisance by reason of vicious disposition or excessive barking or other disturbance, the Animal Control Officer shall investigate such complaint, and submit a written report to the Select Board of the findings and recommendations, together with the written complaint. Upon receipt of such report and examination of the complaint under oath the Select Board may make such order concerning the restraint, muzzling or disposal of such dogs as may be deemed necessary. The Animal Control Officer after investigation may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to enable the Town Administrator to issue an order following receipt of the report of the Animal Control Officer. If the Town Administrator fails to act during the period of the interim order, upon expiration of the period, the order automatically is vacated.

**Section 4:**

- A. The Animal Control Officer may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed fourteen (14) days, any dog for any of the following reasons:
  - a. For having bitten a person.
  - b. If found at large unmuzzled; as the case may be, while an order for the restraint of such dog is in effect.
  - c. If found in a school, schoolyard, or public recreational area.
  - d. For having killed or maimed or otherwise damaged any other domesticated animal.
  - e. For chasing any vehicle upon a public way or way open to public travel in the Town.
  - f. For any violation of Section 2.
- B. Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Animal Control Officer shall submit in writing to the Town Administrator a report of said action and the reason therefore. Upon receipt of such report the Town Administrator may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. If the Town Administrator fails to act upon the report during the period the dog is restrained or muzzled upon expiration of the period, the interim order automatically is vacated.

**Section 5:** The owner or keeper of any dog that has been ordered to be restrained or muzzled or has been restrained under this article, may file a request in writing with the Animal Control Officer that the restraining order may be vacated or that the dog be released, and after investigation by the Animal Control Officer such Officer may vacate such order or release such dog, if the order or restraint was imposed by the Animal Control Officer. If the order was imposed by the Town Administrator, the Animal Control Officer shall investigate and

submit a written report with recommendations to the Town Administrator, who may vacate such order.

## **Section 6:**

### **A. Informal Disposition Process**

1. The owner or keeper of a dog that receives a citation under this By-law may, within twenty-one days, confess to the offense charged by delivering personally or through a duly authorized agent or by mailing to the Town Clerk said citation, along with payment in the amount as authorized under the penalty provisions set forth herein. Said payment shall be by cash or certified check. Payment to the Town Clerk shall operate as a final disposition of the case.
2. If such person, when issued a citation, desires to contest the violation through the informal disposition process, he may, within twenty-one days of said issuance, request a hearing with the Town Administrator and may present, either in person or by counsel, any evidence he may have to refute the allegation contained in the citation. At such hearing, the Town Administrator shall make a determination as to the facts, and said determination shall be final regarding the informal disposition process.

**B. Non-Criminal Disposition of Violation.** If any person so notified by citation desires to contest the violation alleged in the citation notice without availing himself of the provisions of the informal process, or desires to contest the decision of the Animal Control Officer or Town Administrator, he may avail himself of the procedures established By-law. In either of the above cases or if the owner of a dog fails to respond to a citation within twenty-one days, the Town Clerk shall forward a copy of the citation to the District Court where it shall be handled under provisions of Massachusetts General Law, Ch. 40, Section 21D.

**C. Violations.** A violation of any section of this By-law shall be punishable by a warning for the first offense. Any person authorized to enforce the provisions of this By-law shall issue a citation to the owner of any dog violating the provisions of this By-law. Any such citation shall include, in addition to the violation charge, the name and address of the owner of the dog; the date and time and location of the alleged offense, and, if not a warning, the amount of the penalty due. Said citation shall be on a form prescribed and furnished by the Animal Control Officer.

**D. Penalty and/or Fines.** The following penalties, except where otherwise indicated herein, shall be in effect for violations of the By-law after a warning has been issued:

#### **1. Informal Disposition Process**

First Offense in calendar year	\$ 25.00
Second Offense in calendar year	\$ 50.00
Third and each subsequent offense in calendar year	\$100.00

2. Penalties for violations of any provision of the By-law, except where otherwise indicated shall be:

First Offense in calendar year	\$ 25.00
Second Offense in calendar year	\$ 50.00
Third and each subsequent offense in calendar year	\$100.00

3. Each day of any said violation shall constitute a separate offense.
4. The Town Clerk shall receive payment of such penalties and charges and remit same to the dog fund.

**E. Severability Clause.** If any part, section or provision of the By-law is found to be invalid, the remaining sections of this By-law shall not be affected thereby. No provision or interpretation of a provision of this By-law is intended to be either in conflict with or an attempt to change any statutory provision in Massachusetts General Law, Ch. 140, pertaining to dogs.

**Section 7: Leash Law.**

- A. No owner of any dog shall permit such dog to run at large at any time. The provisions of this section shall not apply to the following:
  1. dogs participating in any dog show,
  2. Service animals as defined by the ADA as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples are given in Section 1, subsection C1.
  3. any dogs being trained or actually being used for hunting purposes while such dogs are actively engaged in hunting activity on property permitting such activity,
  4. so long as the owner or keeper of a dog(s) is present and attentive to the dog(s) while said dog(s) is running or occupying a “Dog Park”, “Dog Run” or “Dog Exercise Area” which has been so designated by the Select Board.
- B. Every owner of a dog shall exercise proper care and control of their dog so as to prevent said dog from becoming a public nuisance.
- C. Nothing contained in the foregoing paragraph shall prevent the Select Board from passing any orders authorized by the Massachusetts General Law at such times as they shall deem necessary to safeguard the public.
- D. “No person shall permit a dog under their direct control to be off the premises of the owner or person responsible unless the dog is under the full and direct control of the owner or responsible person and kept on a safe and adequate leash. The owner of the dog or person responsible who violates this section 7 of this By-law shall, after receiving a written warning as to a violation of this section be punished for a subsequent offense by a penalty of twenty-five (\$25.00) for the first offense, fifty dollars (\$50.00) for the second offense and one hundred dollar (\$100.00) for each subsequent offense. The person responsible for the control of any dog shall be deemed to be a person who has willingly assumed the control of the dog from its owner or, in the alternative, the licensed owner of the dog.

**Section 8: Dog Waste Disposal.** Each person who owns, possesses or controls a dog walking in any area within the Town of Maynard, other than on their own private property, is responsible for the immediate removal and disposal of any feces left by his or her dog on any sidewalk, gutter, street or other public area. Persons walking dogs must carry with them a device designed to dispose of dog feces. Such devices include, but are not limited to plastic bags or “pooper-scoopers.” Exempt from the requirements of this section are service animals in the service of their handlers, when the handler is physically unable to clean up after the animal.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 25

#### STRETCH ENERGY CODE

##### **Section 1. Definitions**

- A. International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.
- B. Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.

**Section 2. Purpose.** The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

**Section 3. Applicability.** This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93 as applicable.

**Section 4.** The Town of Maynard, seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR, mandates adherence to Appendix 115 AA.

**Section 5. Stretch Code.** The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Maynard General Bylaws, Chapter 25.

**Section 6. Enforcement.** The Stretch Code is enforceable by the building inspector official.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 26

#### THE PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS

**Section 1: Intent and Purpose.** This By-law is enacted for the purpose of preserving and protecting significant buildings within the Town of Maynard which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the Town and to limit the detrimental effect of demolition of such buildings on the character and value of real property resources of the Town. Through this By-law, owners of Preferably Preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the Town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, this By-law promotes the public welfare by making the Town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Commissioner with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this By-law.

#### **Section 2: Definitions**

**APPLICANT** - Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the subject building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

**APPLICATION** - An application for the demolition of a building.

**BUILDING** - Any structure assembled in a fixed location, having a roof supported by columns or walls, to form a shelter for persons, animals or property.

**BUILDING COMMISSIONER** - The person occupying the office of Building Commissioner or the person otherwise authorized to issue demolition permits in the Town of Maynard.

**COMMISSION** - The Maynard Historical Commission.

**DAYS** - Calendar days.

**DEMOLITION** - Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work that results in total or substantial destruction with the intent of completing the same. A substantial destruction of a building is defined as 50% or more of the Total Gross Floor Area of the building as determined by the Building Commissioner.

**DEMOLITION PERMIT** - The building permit issued by the Building Commissioner for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

**PREFERABLY PRESERVED** - Any Significant Building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished.

A Preferably Preserved building is subject to the twelve (12) month demolition delay period of this By-law unless an earlier demolition permit is allowed under provisions of section 3-L of this By-law, unless the building is on the National Register of Historic Places where it subject to an eighteen (18) month demolition delay period.

**SIGNIFICANT BUILDING** - Any building or portion thereof which appears on the List of Historically Significant Buildings generated by the Historical Commission. This list is maintained by the Commission, is supplied to the Building Commissioner for purposes of this By-law and is part of the public record.

Included on this list may be any building or portion thereof which:

- a. Is listed on, or is within an area listed on, the National Register of Historic Places; or is the subject of a pending application on said National Register; or
- b. Is included in the Historical Resources Inventory prepared by the Commission including those buildings listed for which complete surveys may be pending; or
- c. Has previously been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction or association with a recognized architect or builder or by reason of its association with a person or event of importance to the Town's history.

### **Section 3: Procedure**

- A. No demolition of a Significant Building shall be permitted except in conformance with the provisions of this By-law.
- B. Upon receipt of an application for a Demolition Permit for a Significant Building the Building Commissioner shall forward a copy thereof to the Commission. No demolition permit shall be issued at that time.
- C. An Applicant proposing to demolish a building subject to this By-law shall file with the Building Commissioner an application containing the following information:
  1. The address containing the building to be demolished.
  2. The owner's name, address and telephone number.
  3. A description of the building.
  4. The reason for requesting a demolition permit.
  5. A brief description of the proposed reuse, reconstruction or replacement.
  6. A photograph or photograph(s) of the building.
- D. The Building Commissioner shall within seven (7) days forward a copy of the application to the Commission. The Commission shall, within fifteen (15) days after receipt of the application, make a written confirmation of whether the building is still considered significant.
- E. Upon determination by the Commission that the building is no longer considered significant, due to its present condition or status, the Commission shall so notify the Building Commissioner and Applicant in writing. The Building Commissioner may then issue the Demolition Permit. The subject building shall be removed from the List of Historically Significant Buildings and no further action taken under provisions of this By-law.
- F. Upon determination by the Commission that the building remains significant, the Commission shall so notify the Building Commissioner and the Applicant in writing. No

Demolition Permit may be issued at this time. If the Commission does not notify the Building Commissioner within fifteen (15) days of receipt of the application, the Building Commissioner may then issue the demolition permit.

- G. If the Commission confirms that the building is significant, it shall hold a public hearing within thirty (30) days of the written notification to the Building Commissioner. The Commission shall hold a public hearing and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least fourteen (14) days prior to said hearing. Also the Commission shall, within fourteen (14) days prior to the date of said hearing, mail a copy of the notice to the Applicant and to the Building Commissioner.
- H. The Commission shall decide at the public hearing or within fourteen (14) days after the public hearing whether the building should be determined Preferably Preserved. If agreed to in writing by the Applicant, the determination of the Commission may be postponed.
- I. If the Commission determines that the building is not Preferably Preserved, the Commission shall so notify the Building Commissioner and Applicant in writing. The Building Commissioner may then issue the Demolition Permit.
- J. If the Commission determines that the building is Preferably Preserved, the Commission shall notify the Building Commissioner and Applicant in writing. No Demolition Permit may then be issued for a period of twelve (12) months from the date of the determination (eighteen (18) months for National Historic Register Properties) unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty-one (21) days of the public hearing, the Building Commissioner may then issue the demolition permit.
- K. Upon a determination by the Commission that any building which is the subject of an application is Preferably Preserved, no building permit for new construction or alterations on the premises shall be issued for a period of twelve (12) months from the date of the determination (eighteen [18] months for National Historic Register properties) unless otherwise agreed to by the Commission.
- L. Notwithstanding the preceding sections, the Building Commissioner may issue a Demolition Permit for a Preferably Preserved building at any time after receipt of written advice from the Commission to the effect that:
  - 1. The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or
  - 2. The Commission is satisfied that the owner's actions do not detract from the historical character of the property.
- M. Following the twelve (12) month (eighteen [18] month for National Historic Register properties) delay period, the Building Commissioner may issue the demolition permit.

#### **Section 4: Emergency Demolition**

- A. Notwithstanding the foregoing provisions, if after an inspection, the Building Commissioner finds that a building subject to this By-law poses an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Building Commissioner may issue an emergency demolition permit to the owner of the building. The Building

Commissioner shall then prepare a report explaining the condition of the building and the basis for the decision, which shall be forwarded to the Commission in a timely manner.

- B. No provision of this By-law is intended to conflict with any obligations or rights under MGL Ch. 143 (see sections 8-10) regarding removal or demolition of dangerous or abandoned structures.

#### **Section 5: Enforcement and Remedies**

- A. The Commission and/or the Building Commissioner may enforce the requirements of this By-law.
- B. No building permit shall be issued with respect to any premises upon which a Significant Building has been voluntarily demolished in violation of this By-law for a period of two (2) years from the date of such demolition. As used herein “premises” includes the parcel of land upon which the demolished Significant Building was located.
- C. Upon the determination by the Commission that a building is Preferably Preserved, the owner shall be responsible for properly securing the building to the satisfaction of the Building Commissioner. Should the owner fail to secure said building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of section 5-B.

#### **Section 6: Administration**

- A. The Commission may adopt such rules and regulations as are necessary to administer the terms of this By-law.
- B. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this By-law.
- C. Consistent with authority given the Commission in Section 3, the Commission will periodically review the List of Historically Significant Buildings and vote on additions or deletions from said list following a public hearing, notice of which shall be provided by mail at least fourteen (14) days in advance to the owner(s) of building(s) affected thereby. A revised list will be provided to the Building Commissioner promptly following such review.
- D. An owner of a building may petition the Historical Commission for a determination of the building as historically significant. Within sixty (60) days after the receipt of such application, the Commission shall determine whether the building is a Significant Building. The Applicant for the permit shall be entitled to make a presentation to the Commission if he or she makes a timely request in writing to the Commission. The determination by the Commission of whether a building is a Significant Building shall be made in writing, signed by the Commission, and shall be binding on the Commission for a period of 3 years from the date thereof.

**Section 7: Severability.** In case any section, paragraph or part of this By-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

## TOWN OF MAYNARD

### BY-LAWS

#### CHAPTER 27

#### **ALARM AND VIDEO SECURITY SYSTEMS**

**Section 1:** Definitions – For the purpose of this By-law the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the content, words used in the present tense include the future; words used in the plural number include the singular number; and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- A. The term “Alarm System” means an assembly of equipment and devices or a single device, such as a solid state unit which plugs directly into an 110 voltage line, signals to the Police Department, Fire Department or a Central Station the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this By-law.
- B. The term “Alarm User” or “Users” means any person on whose premises an alarm system is maintained within the Town except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this ordinance are central station personnel and persons who alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however employs an audible signal emitting sounds or a flashing light beacon designed to signal persons outside the premises, such system shall be within the definition of “alarm system”, as that term is used in this By-law, and shall be subject to this By-law.
- C. The term “Central Station” means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.
- D. The word “Town” means the Town of Maynard.
- E. The term “False Alarm” means (1) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employee or agents; (2) any signal or oral communication transmitted to the Police Department when in fact there has been no unauthorized intrusion or attempted robbery or burglary at a premises, and where, under circumstances, the user did not have a reasonable apprehension that an authorized intrusion had occurred, was about to occur, or that some other emergency warranting a response had occurred.
- F. The term “Police Chief” means the Chief of Police of the Town of Maynard or designated representative.

- G. The term “Police” or “Police Department” means the Town of Maynard Police Department, or any authorized agent thereof.
- H. The term “Public Nuisance” means anything which annoys, injures or endangers the comfort, repose, health or safety of any person(s) or of any community or neighborhood.
- I. The term “Video Security System” means an assembly of equipment and cameras to record the events inside and/or exterior to a place of business.

**Section 2:** A. There shall be in the Town an Administrator for the alarm devices who Shall have the powers and duties granted under this By-law.

- B. The Police Chief or his designee shall be the Administrator under the direction and control of the Select Board, which is authorized to adopt regulations for the administration of this By-law.

**Section 3:**

- A. Every alarm user shall submit to the Administrator and the alarm company the names and telephone numbers of at least two (2) other persons who can be reached at any time, day or night, who are authorized to respond to an emergency signal transmitted by an alarm system, who can open the premises wherein the alarm system is installed. The names, addresses and telephone numbers of the responders must be kept current at all times by the alarm user and the alarm company.
- B. Any alarm system emitting a continuous and uninterrupted audible signal for more than thirty (30) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (A) of this section, and which disturbs the peace, comfort or repose of the community or a neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Administrator shall endeavor to contact those persons designated by the alarm user under paragraph (A) of this section in an effort to abate the nuisance.
- C. In the event that the Administrator is unable to contact the alarm user, or members of the alarm user’s family, or persons designated by the alarm user under paragraph (A) of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system and if the Police Department is otherwise unable to abate the nuisance, the Administrator may direct a police officer, firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action to abate the nuisance.
- D. If entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property (1) shall not conduct, engage in, or undertake any search, seizure, inspection or investigation while the authorized person is upon the property; (2) shall not cause any unreasonable damage to the alarm system or to any part of the home or building; and (3) shall leave the property immediately after the audible signal has ceased. After an entry upon property has been made in accordance with this section, the person so

authorized to enter the property shall have the property secured, if able. The fine for the abating a nuisance in accordance with this section is three hundred dollars (\$300).

- E. Within ten (10) days after notice of the fine levied to abate a nuisance in accordance with this section, the alarm user may request a hearing before the Select Board and may present evidence showing that the signal emitted by their alarm system was not a public nuisance at the time of the abatement; that unnecessary damage was caused to his property in the course of the abatement; that the fine for the abatement should not be assessed to him; or that the requirements of this section were not fulfilled. The Select Board shall hear all interested parties and may, in its discretion, reimburse the alarm user for the repairs to their abatement.

#### **Section 4:**

- A. When emergency messages are received by the Police Department that evidence of false alarms, the Administrator shall take such action as may be appropriate under paragraphs (B), (C), (D) and (E) of this section, and when so required by the terms of the aforementioned paragraphs, order that use of an alarm system be discontinued.
- B. After the Police Department has recorded three (3) separate false alarms within the calendar year from an alarm system, the Administrator shall notify the alarm user, in person, by telephone, or by mail of such fact and require the said user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user fails to submit such report within fifteen (15) days, the Administrator shall order that the use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.
- C. In the event that the Administrator determines that a report submitted in accordance with paragraph (B) of this section is unsatisfactory, in that the alarm user has failed to show by the report that the alarm user has taken or will take reasonable steps to eliminate or reduce false alarms, then the Administrator shall order that the use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Administrator's order.
- D. In the event that the Police Department records eight (8) false alarms within the calendar year from an alarm system, the Administrator shall order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected.
- E. Any user of an alarm system which transmits false alarms shall be assessed a fine of fifty dollars (\$50) for each false alarm in excess of three (3) occurring within the calendar year. All fines assessed hereunder shall be paid to the Town Treasurer and Collector for deposit in the General Fund. Upon failure of the user of an alarm system to pay the fine assessed hereunder within thirty (30) days of assessment, the Administrator shall order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within fifteen (15) days from the receipt of the Police Chief's order.

- F. Any user of an alarm system who has, in accordance with this section, been ordered by the Police Chief to discontinue use of an alarm system may appeal the order of discontinuance to the Select Board. Notice of an appeal shall be filed with the Select Board within ten (10) days of the date of receipt of the order to discontinue.

Thereafter the Select Board shall consider the merits of the appeal, and, in connection therewith, shall hear evidence presented by all interested persons. After hearing such evidence, the Select Board may affirm, vacate or modify the order of discontinuance.

- G. The provisions of this By-law concerning false alarms shall apply to all alarm users except municipal, county, state and federal agencies and religious organizations.

**Section 5:** The following acts and omissions shall constitute violations of this By-law punishable by fines of up to three hundred dollars (\$300).

- A. Failure to obey an order of the Administrator to discontinue use of the alarm system after exhaustion of the right of appeal.
- B. Failure to pay a fine assessed under this By-law within thirty (30) days from the date of assessment; and C. Failure to comply with the requirements of Section 3 (Control and Curtailment of Signals Emitted by Alarm Systems). Each day during which the aforesaid violations continue shall constitute a separate offense.

**Section 6:** Any business who employs a Video Security System shall register it with the Administrator.

**Section 7:** The invalidity of any part or parts of this By-law shall not affect the validity of the remaining parts or in any way act thereon.

# **TOWN OF MAYNARD**

## **BY-LAWS**

### **CHAPTER 28**

#### **FIRE ALARM SYSTEMS**

**Section 1:** Definitions. When used in this By-law, unless a contrary intention clearly appears, the following words shall have the following meanings:

- A. “Central Station Operating Company”: A company equipped to receive a fire alarm signals from its customers, and which receives alarm signals and communicates the location of any such alarm signals to the Maynard Communications Center.
- B. “False Alarm”: For the purposes of this By-law, a false fire alarm shall be defined as follows:
  - 1. The operation of a faulty smoke or heat detection device.
  - 2. Faulty control panel or associated equipment.
  - 3. A water pressure surge in automatic sprinkler equipment.
  - 4. Accidental operation of automatic sprinkler.
  - 5. An action by an employee of the owner, occupant of the protected premises, or a contractor employed by the owner or the occupant, causing accidental activation of an internal fire alarm system.
- C. “Fire Alarm Malfunction”: The transmittal of a fire alarm to a Central Station Operating Company or directly to the Maynard Communications Center by way of a radio box which alarm is caused by improper installation of a fire alarm system, a mechanically defective fire alarm system, lack of maintenance or some other reason that causes a fire alarm to sound even though there is no actual fire or situation that reasonably could evolve into a fire.
- D. “Fire Alarm Systems”: Any heat-activated, smoke activated, flame-energy-activated or other such automatic device capable of transmitting a fire alarm signal to either a Central Station Operating Company or directly to the Maynard Communications Center by way of a radio box, or communicates with a central station operating company using a UL approved device.
- E. “Fire Alarm System Owner”: An individual or entity which owns the title to and/or maintains a fire alarm system equipped to send a fire alarm signal to a Central Station Operating Company or directly to the Maynard Communications Center by way of a radio box.
- F. “Fire Chief”: The Chief of the Maynard Fire Department (“M.F.D.”).
- G. “Knox Box”: a secure box that provides a secure location for keys and vital information associated with a building. A Knox Box is purchased through the Knox

Box Company with approval from the Maynard Fire Department. The Knox Box approved by the M.F.D. is provided with a unique lock for which only the M.F.D. has keys. Knox Boxes are the only type of lock box allowed by the M.F.D.

- H. "Radio Box Owner": An individual or entity who owns a commercial building, or business or residential premises, which maintains a fire alarm system equipped to send a fire alarm signal directly to the Maynard Communications Center by way of a radio box.

## **Section 2:**

- A. Every Radio Box Owner, whose fire alarm system as of the date of adoption of this By-law is connected to the Maynard Communications by way of a radio box, shall pay the following fees:

Annual Fee for Churches and Non-Profit Organizations	\$ 75.00
Annual Fee for All Others	\$200.00

- B. Every Master Box Owner whose fire alarm system is connected after the date of adoption of this Bylaw to the M.F.D. by way of a master box shall pay the following fees.

Annual Fee for Churches and Non-Profit Organizations	\$ 75.00
Annual Fee for All Others	\$200.00

- C. Before any fire alarm system is connected to the Maynard Communications Center, the Radio Box Owner shall provide the Fire Chief with the following information, and agrees to keep information current:

1. The name, address, and home and work telephone numbers of the Radio Box Owner and other persons or businesses protected who may be listed as key-holders or property representatives.
2. The street address where the radio box is located.
3. The names, addresses and home and work telephone numbers of at least two persons other than the owner who can be contacted twenty-four hours a day, who are authorized by the Radio Box Owner to respond to an alarm signal and who have access to the premises in which the master box is located.
4. The insurance carrier (with a copy of the insurance policy) for the building.
5. Such other information as the Fire Chief may require.

- D. If, as of the date of adoption of this By-law a fire alarm system has already been connected to the Maynard Communication Center by way of a radio box, the Radio Box Owner shall comply with the requirements of this Section within sixty (60) days after the M.F.D. has sent the Radio Box Owner notice by certified mail, return receipt requested, of the requirements of this Section.

- E. If a Radio Box Owner fails to comply with any part of this Section, the Fire Chief may assess a fine of fifty dollars (\$50.00) for each day of non-compliance.

### **Section 3:**

A. Every Central Station Operating Company which makes a direct connection after the date of adoption of this By-law to the Maynard Communications Center shall pay the following fees:

Permit Fee	\$ 20.00
Connection Fee	\$100.00
Annual Fee for Churches and Non-Profit Organizations	\$ 75.00
Annual Fee for All Others	\$200.00

B. Before any Central Station Operating Company is connected with the M.F.D., the building owner shall provide the Fire Chief with the following information:

1. The name, address, and telephone numbers of the Central Station Operating Company.
2. The names, addresses and home and work telephone numbers of at least two persons who can be contacted twenty-four hours a day, who are authorized by the building owner to respond to an alarm signal, or other emergency, and who have access to the premises from where the alarm signal is emitting to the Central Station Operating Company.
3. The insurance carrier (with a copy of the insurance policy) for the company.
4. An approved Knox Box secured to the building with keys to all suites, units, or apartments properly labeled. Such other information as the Fire Chief may require.

C. If upon adoption of the By-law a Central Station Operating Company already has a direct connection to the Maynard Communication Center., the Central Station Operating Company shall comply with the requirements of this Section within sixty (60) days after the M.F.D. has sent it notice by certified mail, return receipt requested, of the requirements of this Section.

D. If a Central Station Operating Company fails to comply with Section, the Fire Chief may assess a fine of fifty dollars (50.00) for each day of non-compliance to the building owner.

**Section 4:** Every building owner shall be responsible for updating the information herein required to be provided to the Fire Chief. If the information provided changes, the building owner shall provide the Fire Chief with the updated information and shall pay the fee, if required by this By-law. If a building owner fails to comply with this Section, the Fire Chief may assess a fine of fifty dollars (\$50.00) for each day of non-compliance.

**Section 5:** If there is a Fire Alarm System Malfunction, the Fire Chief, Fire Captains and/or Police Officers in accordance with Massachusetts General Law, Ch. 40, §21D shall be deemed to be the Enforcing Person and may assess a fine against a fire alarm system owner for each malfunction occurring during any fiscal year according to the following schedule:

- A. First through Third malfunction No Charge

Upon recording of the third Fire Alarm System Malfunction by the M.F.D., the Fire Chief shall provide written notice of said Fire Alarm System Malfunctions and a copy of this bylaw to the owner of the building, by certified mail.

Fourth through Sixth Malfunction	\$100.00
Seventh through Eleventh Malfunction	\$200.00
Each Malfunction after the Eleventh	\$300.00

- B. Private fire alarm systems connected through a Central Station Operating Company system shall also be subject to the above fines.
- C. Any Fire Alarm System Malfunction which is the result of the failure of the property owner, occupant or their agents to notify the M.F.D. of repair, maintenance or testing of an internal fire alarm system within the protected premises, shall cause a penalty to be assessed in accordance with part A of this Section 5.
- D. Property owners will be billed once a month for the Fire Alarm System Malfunction activity occurring during the previous month.
- E. If any bill is not paid within thirty (30) days of issuance, written notice will be sent; if the bill is not paid after a second (30) day period, a final notice will be sent informing the owner and/or occupant that the master box, or radio box will be disconnected and the Fire Alarm System Owner's insurance company notified.

**Section 6:** No Fire Alarm System shall be equipped with a tape dialer or similar automatic telephone device which will transmit an alarm message to any telephone lines of the M.F.D., or the Maynard Communications Center. If, upon adoption of this By-law, a Fire Alarm System is equipped with such a tape dialer or similar automatic telephone device, the Fire Alarm System Owner shall have sixty (60) days from adoption of this By-law to disconnect such tape dialer or similar automatic telephone device. If a Fire Alarm System Owner fails to comply with this Section, the Fire Chief may assess a fine of fifty dollars (\$50.00) for each day of non-compliance.

**Section 7:**

- A. Any building other than a residential building of less than six (6) units, which has an Fire Alarm System or other fire protection system, shall have a Knox Box installed. The Knox Box will be installed in a location accessible to the M.F.D. in case of emergency. This Knox Box shall be approved by the M.F.D. Keys to the structure served by the Fire Alarm System, keys to fire alarm control panels and other keys necessary to operate or service the Fire Alarm System shall be provided to the M.F.D. In addition, if required by the Fire Chief, a Knox Box, sufficient in size as determined by the Fire Chief, shall be installed and shall contain an updated and accurate list and federal OSHA Form 20 Material Safety Data Sheets for hazardous substances present on the site in "significant quantities". As used herein, the phrases "hazardous substances" and "significant quantities" shall be defined by applicable Town, Commonwealth of Massachusetts and Federal Regulations governing the storage of these substances.

- B. The Knox Box shall be approved by the Fire Chief and compatible with the Knox Box System presently in use. The Knox Box shall be located and installed as approved by the Fire Chief.
- C. No permit for a Fire Alarm System will be issued until the permit applicant has placed an order for a Knox Box as specified above.
- D. Any building owner violating Section 7 of this By-law after receiving due notice by the M.F.D. shall be subject to a fine of fifty dollars (\$50.00) for each day of non-compliance.
- E. Every building owner whose fire alarm system is already connected by Radio box to the Maynard Communications Center on the effective date of this By-law shall have ninety (90) days to order a Knox Box to comply with this Section. Failure to comply shall be subject to the fifty dollars (\$50.00) fine for each day of non-compliance.

**Section 8:** Any Fire Alarm System Owner who is aggrieved by an action taken by the Fire Chief under this By-law may within ten (10) days of such action, file an appeal, in writing, to the Select Board of the Town of Maynard (the “Board”). After public notice the Board shall hold a hearing, after which it shall issue a decision in which it may suspend, affirm, annul, or modify the action taken by the Fire Chief giving its written reasons therefore. The Board shall send its decision to the owner by first class mail within ten (10) days after the hearing. The decision of the Board shall be a final administrative decision. The owner shall have thirty (30) days from the date of the written decision to seek judicial review in the Middlesex County Superior Court.

**Section 9:** The Fire Chief may promulgate such regulations as may be necessary to implement this Bylaw. The Fire Chief is authorized to pursue such legal action as may be necessary to enforce this By-law.

**Section 10:** All fees and fines collected shall be paid to the Town Treasurer and Collector for deposit in the General Fund. The Town Treasurer and Collector shall provide quarterly reports to the Fire Department advising them of collections and payments.

**Section 11:** The provisions of this By-law shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 29

#### HAZARDOUS MATERIALS

**Section 1:** This By-law is adopted for the regulation and restriction of hazardous materials in the Town of Maynard (the “Town”), in order to protect, preserve and maintain the Town’s existing and potential groundwater supply, groundwater recharge areas, surface waters and air quality from contamination and to assure public health and safety.

**Section 2:** This hazardous Materials By-law is hereby declared to be remedial and protective and is to be construed so as to secure the beneficial interests and purposes thereof. It is adopted by the Town under its home rule powers, and its police powers to protect the public health and safety.

**Section 3:** Definitions as used in this By-law:

- A. “Board” shall mean the Board of Health of the Town of Maynard.
- B. “Container” shall mean any portable device in which hazardous material is stored, transported, treated, disposed of or otherwise handled.
- C. “Discharge” shall mean the disposal, deposit, injection, dumping, spilling, leaking, incineration or placing of any hazardous material, into or on any land or water so that such hazardous material or any constituent thereof may enter the environment, be emitted into the air or enter into any waters including groundwater. Discharge includes, without limitation, leakage of such hazardous material from containers or storage systems, or disposal of such materials into any sewage disposal system, dry well, catch basin or landfill.
- D. “Hazardous Material” shall mean any substance, or combination of substances which because of its quantity, concentration, or physical, chemical or infectious or toxic characteristics, may cause or significantly contribute to a present or potential risk to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance deemed a hazardous waste in 315 Code of Massachusetts Regulations 2.04, substances defined as being hazardous by the Division of Hazardous Waste under the provisions of Massachusetts General Law, Ch. 21C.
- E. “Owner or Operator” shall mean every person who alone or severally with others has legal title to any property on which is located any hazardous material subject to this By-law; or a tenant, licensee or person in possession who has care, charge or control of any such property, in any capacity including without limitation agent, executor, administrator, trustee or guardian of the estate of the holder of legal title or agent, trustee or a person appointed by a court of competent jurisdiction; or is a mortgagee

in possession of such property. Each person is bound to comply with the provisions of this By-law as if he were an owner.

- F. "Storage" shall mean the holding of any hazardous material for more than twenty-four (24) hours.
- G. "Tank" shall mean any stationary device used to store or to contain an accumulation of hazardous material.

#### **Section 4:**

- A. All discharges of hazardous materials within the Town are prohibited, except as provided in Section 4(B).
- B. All handling and storage of hazardous materials within the Town is prohibited except in accordance with the provisions of this By-law and the Massachusetts Hazardous Waste Management Act (Ch. 21C of the Massachusetts General Laws).

#### **Section 5:**

- A. Section 4(A) shall not apply to the following discharges:
  - 1. Application of fertilizer and pesticides in accordance with label recommendations and with applicable regulations of the Massachusetts Pesticide Control Board and the United States Environmental Protection Agency under the Federal Insecticides, Fungicide Act and in accordance with the Board's Rules and Regulations.
  - 2. Application of road salts in conformance with the Snow and Ice Control Program of the Massachusetts Department of Public Works and in accordance with the Board's Rules and Regulations.
- B. Section 4(B) shall not apply to underground storage of gasoline, fuel oil, lubricating oil and waste oil. The underground storage of fuel is governed by the Maynard Underground Fuel Storage By-law.

**Section 6:** Any owner or operator who is aware of any discharge of hazardous materials within the boundaries of the Town shall report such discharge immediately to the Board and to the Fire Chief of the Town.

#### **Section 7:**

- A. (1) Every owner or operator of a residential, commercial, industrial or agricultural establishment storing hazardous materials above ground or underground, in any tank or container with a capacity of more than twenty-five (25) gallons liquid volume, or twenty-five (25) pounds dry weight, except residential fuel tanks under three thousand (3,000) gallons and connected to a fuel burner and used for space or water heating, must obtain a storage permit from the Board to be renewed annually. The terms twenty-five (25) gallons liquid volume, or twenty-five (25) pounds dry weight shall mean any one toxic or hazardous material of such weight or volume stored at any one

time. Registration required by this subsection shall be submitted within sixty (60) days of the effective date of these regulations, and annually thereafter on such form or forms as the Board may, from time to time prescribe.

- B. The Board may publish lists of specific hazardous materials which, even though stored in quantities less than twenty-five (25) gallons liquid volume or twenty-five (25) pounds dry weight, can be stored only pursuant to a storage permit. The list is to be posted at the Town Hall and the Public Works Building and available from the Board.
- C. The Board shall impose conditions on the storage permit as necessary for protection of the public health and environment such as, but not limited to, inventory and monitoring procedures, a contingency plan to contain any accidental discharge, or vaulting of the storage tanks.
- D. Owners or operators shall file in writing with the Board of Health the size, type, age, and location of each tank or container and the type of material stored in each tank or container and any additional information deemed necessary to adequately evaluate the application. Evidence of date of purchase and installation shall be included for existing storage systems, along with a plot plan showing the location of such tanks and piping on the property.
- E. Every owner or operator of a commercial or industrial establishment or any person within the Town whose operations are subject to any of the following Acts, as amended from time to time, shall file with the Board copies of all permit applications and supporting data filed pursuant thereto as well as all permits obtained, notices or approval, denial, revocation and citations for violations in respect thereof and shall provide the Board with such additional information as the Board shall by rule from time to time require.
  - 1. The Resource Conservation and Recovery Act 42 U.S.C. Sec. 6901 et seq.
  - 2. The Federal Clean Air Act 42 U.S.C. Sec. 1857 et seq.
  - 3. The Federal Clean Air Act 33 U.S.C. Sec. 1251 et seq.
  - 4. Toxic Substance Control Act 15 U.S.C. Sec. 2601 et seq.
  - 5. Safe Drinking Water Act 42 U.S.C. Sec. 300f et seq.
  - 6. The Federal Insecticide, Fungicide and Rodenticide Act.
  - 7. The Massachusetts Hazardous Management Act, Massachusetts General Law, Ch. 21C as amended and other Massachusetts counterpart statutes to the Federal Acts listed in subparagraph (1) through (6) above.
  - 8. Massachusetts Clean Water Act, Massachusetts General Law, Ch.21, S.26 et seq.

**Section 8:** Owners or operators storing hazardous materials that are flammable and combustible liquids or gasses must obtain a permit or license as required by Massachusetts General Law, Ch.148, S.13 and S.10a from the Fire Chief or the local licensing authority, the Select Board, to be renewed annually with the Town Clerk.

**Section 9:** An inventory of hazardous materials shall be maintained on the premises and it must be reconciled with purchase, use, sales and disposal records on a monthly basis, in order to determine any loss.

**Section 10:** Containers of hazardous materials shall be stored on an impervious chemical resistant surface. The storage area must be enclosed with a permanent dike of impermeable construction and in the case of liquid materials providing a volume of at least 110% of the maximum volume of material stored. The storage area must be capable of being drained to a container or sump and secured by removal by a licensed carrier.

**Section 11:** Wastes containing hazardous materials shall be held on the premises in product-tight containers for removal by a Massachusetts Hazardous Waste Management Act, Ch. 21C of the Massachusetts General Laws. The name, address, home and business telephone numbers of one or more individuals, from the licensed carrier, authorized to act for and in behalf of the entity storing toxic or hazardous waste, together with estimates of amounts stored and hauled during the past twelve (12) months, shall be provided to the Board of Health.

**Section 12:** The provisions of these regulations adopted hereunder shall be enforced by the Board.

**Section 13:** Upon request of the agent or designated representative of the Board of Health, the owner or operator of any premises at which hazardous materials are used or stored shall furnish all information acquired to monitor compliance with these regulations including a complete list of all chemicals, pesticides, fuels, and other hazardous materials used or stored on the premises, their volumes and concentrations, a description of measures taken to protect storage container from vandalism, corrosion and spillage, and the means of disposal of all toxic or hazardous waste produced on the site.

**Section 14:** A current (not more than two (2) years old) written plan for dealing with potential spillage, leakage, or loss of hazardous materials used or stored on one's premises shall be filed with the Board and Fire Department. Said plan shall clearly designate the name, address, and business and home phone numbers of one or more individuals authorized to act for and in behalf of the entity submitting the plan. The plan shall also list the name, address and telephone number of any company with whom the party submitting the plan has contracted for services in connection with potential spillage, leakage or loss and/or removal of hazardous materials.

**Section 15:** All records pertaining to storage, removal and disposal of hazardous waste shall be retained for no less than ten (10) years, and shall be made available for review by the agent or designated representative of the Board of Health upon request.

**Section 16:** The Board may, at any time, and upon reasonable notice to the occupant of the premises, enter any premises for the purpose of investigating, sampling, or inspecting any

record, condition, equipment, practice, or property relating to activities subject to this By-law, and may at any time enter such premises for the purpose of protecting the public health or safety, or to prevent damage to the environment.

**Section 17:** Fees necessary for the issuance and renewal of permits and licenses shall be set by the Board of Health.

**Section 18:** The penalty for violation of this By-law shall be as follows:

- |                                |          |
|--------------------------------|----------|
| A. For the first offense       | \$100.00 |
| B. For the second offense      | \$200.00 |
| C. For each subsequent offense | \$300.00 |

Each separate calendar day, or part thereof, that a violation occurs or continues is considered a separate offense.

**Section 19:** The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof.

## TOWN OF MAYNARD

### BY-LAW

### CHAPTER 30

#### UNDERGROUND FUEL STORAGE

**Section 1:** This By-law is adopted for the regulation and restriction of underground gasoline or fuel storage tanks over one thousand (1,000) gallons within the Town of Maynard ("The Town"), in order to protect, preserve and maintain groundwater and surface waters from contamination and to assure the public health and safety.

**Section 2:** This Underground Fuel Storage By-law is hereby declared to be remedial and protective and is to be construed so as to secure the beneficial interests and purposes thereof. It is adopted by the Town under its home rule powers, its police powers to protect the public health and welfare, and its authorization under Massachusetts General Law, Ch. 40, § 21.

**Section 3:** Definitions as used in this By-law:

- A. "Abandoned" shall mean being out of service for a continuous period in excess of six months, in the case of a storage facility for which a license from the local licensing authority is required under the provisions of Massachusetts General Law, Ch.148, Sec. 13, as amended and for a period in excess of twenty-four (24) months, in the case of any other storage facility.
- B. "Fire Chief" shall mean the Chief of the Fire Department for the Town of Maynard.
- C. "Operator" shall mean the lessee of a storage facility or the person or persons responsible for the daily operation of a storage facility.
- D. "Owner" shall mean the person or persons or government entity having legal ownership of a storage facility.
- E. "Storage Facility" shall mean one (1) or more tanks, at a particular site, together with its or their components, used, or designed to be used, for the underground storage of liquid petroleum products such as gasoline, fuel oil, lubricating oil or waste oil.
- F. "Underground Tank" shall mean any fuel storage container system for liquid petroleum products such as gasoline, fuel oil, lubricating oil or waste oil with a capacity in excess of one thousand (1,000) gallons, the top of which is below the ground. This definition does not include storage in a freestanding container within a building.

**Section 4:** Underground tanks shall not be installed within two hundred fifty (250) feet of a surface of water.

## **Section 5:**

- A. Underground tanks shall be constructed of non-corrosive material such as fiberglass reinforced resin or its equivalent externally bonded to a steel tank; or underground steel tanks must be cathodically protected by an impressed current cathodic protection, sacrificial anodes, or some other type of equivalent protection. All tanks must be internally coated by the manufacturer for corrosive resistance.
- B. Underground piping shall be constructed of non-corrosive materials such as FRP or its equivalent; or underground steel piping must be cathodically protected by impressed current cathodic protection, sacrificial anodes, or some other type of equivalent protection.
- C. If a cathodic protection system is installed, an ongoing preventative maintenance program shall be used. If sacrificial anodes have been installed, their proper operation shall be confirmed by a qualified person at least once a year. If an impressed current cathodic protection system is installed, the operator shall verify that it is operating at least once a month, and at least once a year measure the structure to soil and structure to structure potentials, and the rectified voltage and current output. If any such system does not have adequate negative voltage, or is otherwise defective, the owner shall have the system repaired promptly by a qualified person. All results must be submitted to the Fire Department within five (5) days of each test or inspection.
- D. All new and replacement tanks must be equipped with striker plates below openings used for product measurement or filling.
- E. All submersible-pumping systems for newly installed tanks used to store automotive fuel shall be equipped with emergency shut-off valves under each dispenser and with delivery line leak detectors. The shut-off valves and leak detectors shall be tested by a qualified person upon installation and at least annually thereafter. No suction pumping system shall be equipped with any check valve in the piping except at the tank end, and any such check valve shall be so installed that it may be tested or replaced without disturbing other elements of the storage facility.
- F. Every newly installed tank shall be equipped with an overfill prevention system. If a tank is filled by gravity flow, it must be equipped with a float vent valve or other device that provides equal or better protection from overfilling. If the tank is filled under pressure, it must be equipped with a combined audible and visual high-level alarm. Any such system shall be tested by a qualified person upon installation and at least annually thereafter.

## **Section 6:**

- A. A tank shall not be buried until it has been inspected and approved by the Fire Chief or designee.
- B. Tanks must be installed in accordance with the manufacturer's installation techniques. Damage to protective coatings or to the FRP tank or surface must be repaired prior to covering the tank.

- C. The owner's expense, new underground tanks shall be tested for tightness hydrostatically or with air press at not less than three (3) pounds per square inch and not more than five (5) pounds per square inch after installation, but before being covered or placed in use.
- D. At the owner's expense all piping, before being covered enclosed or placed in use, shall be hydrostatically tested to 150 percent of the maximum anticipated pressure of the system, or pneumatically tested to 100 percent of the maximum anticipated pressure of the system, but not less than fifty (50) pounds per square inch gage at the highest point of the system. If a pneumatic test is performed, all joints and connections shall be coated with a soap solution and the test shall be maintained for a sufficient time to complete visual inspection of all joints and connections, but for at least ten (10) minutes.
- E. The backfill material for all newly installed tanks or any repairs to tanks already installed tanks shall be either pea gravel or clean, non-corrosive sand, free of cinders, stones and any other foreign material, the material under the tank to be compacted and contoured to the shape of the tank before the tank is installed, the balance to be thoroughly compacted.
- F. Underground tanks that are to be located in areas subject to flooding or below the maximum water table elevation must be anchored according to manufacturer's instructions.

## **Section 7:**

- A. All underground tanks, except fuel oil tanks and containers connected with burning equipment, shall be installed and monitored for the prevention and detection of leakage in accordance with the following provisions.
- B. Accurate daily inventory records by means of dip sticking shall be maintained and reconciled on all liquid underground tanks for indication of possible leakage from said tanks or piping. The records shall be kept on the premises, available for inspection by the Fire Chief or designee, and shall include, as a minimum, records showing type of product, daily reconciliation between sales, use, receipts and inventory on hand. If there is more than one system consisting of a tank(s), serving pump(s) or dispenser(s) for any product, the reconciliation shall be maintained separately for each tank system.
- C. The daily inventory records must be shown to the Fire Chief or designee, prior to issuance of a permit or license renewal.
- D. For every storage facility covered by the inventory control requirements of this section, the owner shall, at least annually and at the owner's expense, submit the daily inventory records of the most recent calendar month for leak detection statistical analysis by any professionally qualified person. The person performing such analysis shall promptly submit certified copies of the results of that analysis to the owner and to the Fire Chief. If the analysis by the qualified person determines, on the basis of that analysis, there is a probability of a leak from any tank or its components in that facility, the owner shall within three (3) working days, take the steps outlined in

Section 7(F) with respect to that tank and its components; or, in the case of a combination, with respect to each tank and its components.

- E. The Fire Chief or designee shall require the owner of an underground tank storage system to test the system for tightness as provided in Section 6(C), at the owner's expense, when accurate daily inventory records have not been maintained as specified in Section 7(A).
- F. If daily inventory records indicate a loss of product in excess of 0.5 percent of the volume of the product used or sold, or an abnormal increase in the amount of water contained in the tank, the following steps shall be taken, as a minimum, by the owner or operator within three (3) working days:
  - 1. The inventory records shall be checked for error.
  - 2. If no error is apparent, an independent calculation of apparent loss shall be made by a qualified person starting from a point in time where the records indicate a no loss condition.
  - 3. If step 2 confirms no apparent loss, the readily accessible physical facilities on the premises shall be carefully inspected for evidence of leakage.
  - 4. If step 3 does not disclose a leak, the dispensers used with the particular product involved with the apparent loss shall be checked for calibration.
  - 5. If steps 1 through 4 do not explain the apparent loss, the situation shall be reported promptly to the Fire Department.
  - 6. If step 4 does not explain the loss, and if the piping system can be tested without the need for excavation, the piping system between the storage tank and the dispenser(s) shall be tested in accordance with Section 6(D). If it is necessary to excavate to perform a piping test, such test shall be conducted after a storage tank test has been performed in accordance with step 7.
  - 7. If step 6 does not disclose a leak, the storage tank(s) shall be tested for tightness in accordance with Section 6(C).
  - 8. If steps 1 through 7 do not confirm the apparent loss, the daily inventory shall be continued with a daily independent verification by a qualified person. Additional surveillance of the facility should be engaged to insure against unauthorized removal of product.
  - 9. If any of the above tests or investigations indicates the source of the loss, the owner or operator shall take immediate action to correct the system failure.

## **Section 8:**

- A. Unless the owner or operator demonstrates to the Fire Chief or designee, that their tank(s) are constructed of a material that will not corrode, has product sensors, or has

been repaired or tested within the last year, underground tanks shall be required, at the expense of the owner, to undergo a hydro-static precision test; or the equivalent as determined by the Fire Chief or designee, at five-year intervals from the date of installation, up to the twentieth year, and annually thereafter. The Fire Chief or designee shall be given a least 48 hours' notice of time, date, and place of testing. Tests must be performed by a person or firm qualified to perform such testing and all results must be promptly submitted to the Maynard Fire Department.

- B. If flammable fluids or their vapors have been detected in neighboring structures, sewers, or wells on or off the property locations, the Fire Chief or designee, may require that any nearby tank, including underground residential tanks less than 1000 gallons, be tested at the expense of each tank's owner.

#### **Section 9:**

- A. Any person who is aware of a spill, leak or loss of contents of an underground tank must report such spill or loss to the Fire Department immediately. The Fire Department must be responsible for other notification, including the Board of Health, and Massachusetts Department of Environmental Protection.
- B. With respect to fuel oil tanks, heating fuel service companies and suppliers shall notify the tank owner and the Fire Department of any significant and unaccounted for increase in consumption which may indicate a leak in the tank or system. If such increase is discovered by the owner, he shall notify the Fire Department. If a leak is confirmed, the tank must be repaired or replaced, under the direction of the Fire Chief or designee.

#### **Section 10:**

- A. After a leak is confirmed, underground tanks (or piping), must be emptied immediately, and removed or repaired forthwith, under the direction of the Fire Chief or designee.
- B. A leaking tank that is twenty (20) years old or older that does not comply with the design standards in Section 5(A) must be removed and may not be repaired. A permit for its removal must be obtained in accordance with Massachusetts General Law, Ch.148, and Section 38A.
- C. A leaking tank that is less than twenty (20) years old must be repaired or removed. Operators of leaking FRP tanks must demonstrate to the Fire Chief or designee that the tank can be repaired according to manufacturer's instructions. Operators who do not meet these requirements must remove the tank.
- D. If the Fire Chief or designee, permits the repair of any leaking tank, the tank and its piping shall tested, at the owner's expense and in accordance with Sections 6(C) and (D), prior to being restored to service, at two (2) year intervals for ten (10) years and annually thereafter.

- E. If it is necessary to replace an underground steel tank that has developed an external corrosion-induced leak, all other steel tanks and piping at the facility, whether they are leaking or not, shall be tested for leaks in accordance with Sections 6(C) and (D).

**Section 11:** If the owner of a tank, which either is located under a building and cannot be removed from the ground without first removing the building or is so located that it cannot be removed from the ground without endangering the structural integrity of another tank, decides to abandon it, the owner shall promptly notify the Fire Chief Department and the Board of Health of this decision and, subject to the directions of the Fire Chief or designee, have all the petroleum product removed from the tank, by hand pump if necessary, and the tank filled with sand or other inert material prescribed by the Fire Chief or designee.

**Section 12:** Except as provided in Section 11, no tank may be abandoned in place. Any owner of a tank who had decided to abandon it and any owner of a tank that has in fact been out of service for a period of time constituting abandonment shall immediately obtain a permit from the Fire Department pursuant to Massachusetts General Law, Ch.148, Section 38A, as amended, and, subject to the directions of the Fire Chief, have any petroleum product removed from the tank, all tank openings properly secured and the tank removed from the ground. The product and tank shall be disposed of, at owner's expense, as directed by the Fire Chief, or designee.

**Section 13:** The owner of a tank, which is licensed under Massachusetts General Law, Ch.148, as amended, and which the owner has decided to take out of for a period of less than six (6) months, shall promptly notify the Fire Department of the decision and, subject to the directions of the Fire Chief or designee, have all the petroleum product removed from the tank and disposed of. As directed by the Fire Chief or designee, all tank openings properly secured, and the tank filled with water. Before any such tank may be restored to service, the owner shall notify the Fire Department and have the water removed and disposed of in a manner approved by Massachusetts Department of Environmental Protection or the state department overseeing such actions. The Fire Chief or designee may require that the owner have the tank and its piping tested, at the owner's expense, in accordance with the provisions of Subsections 6(C) and (D).

**Section 14:** The provisions of this By-law shall be administered by the Fire Chief or designee.

**Section 15:** Variances from the specific requirements of this By-law may be authorized by the Town Select Board after notice and a public hearing.

**Section 16:** Licenses issued in accordance with Massachusetts General Law, Ch.148, § 1 for underground tanks must be renewed at five-year intervals from the date of installation, up to the twentieth year, and annually thereafter. At least fifty (50) days before the issuance of a permit renewal for the time periods specified herein, tank owners must submit to the Fire Department and the licensing authority a statement certifying satisfactory leak detection results over the period of the permit in accordance with Section 6 of this By-law, and inventory verification in accordance with Section 7. Test results must accompany the permit renewal application.

**Section 17:** Fees necessary for the issuance and renewal of permits and licenses shall be set by the Select Board.

**Section 18:** The Fire Chief or designee may, at all reasonable times and upon reasonable notice to the occupant of the premises, enter any premises, public or private, for the purpose of inspecting any record, condition, equipment, practice, or property relating to activities subject to this By-law, and may at time and upon reasonable notice to the occupant of the premises enter such premises for the purpose of protecting the public health or safety, or to prevent damage to the environment.

**Section 19:** The Fire Chief or designee shall enforce this Bylaw. The penalty for violation of this By-law shall be as follows:

- |                                |          |
|--------------------------------|----------|
| A. For the first offense       | \$100.00 |
| B. For the second offense      | \$200.00 |
| C. For each subsequent offense | \$300.00 |

Each separate calendar day, or part thereof, that a violation occurs or continues is considered a separate offense.

**Section 20:** The invalidity of any section or provisions of this By-law shall not invalidate any other section or provision hereof.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 31

#### PUMPS, WELLS, FOUNTAINS, ETC

**Section 1:** No person shall in any manner injure any of the pumps, wells, drinking fountains or watering troughs in the streets or public grounds of the Town, nor shall throw or place any substance into the same or into any of the public waters of the Town.

**Section 2:** Any person violating any of the provisions of this chapter shall be punished by a fine of not less than two dollars (\$2) nor more than three hundred dollars (\$300) for each offense.

**Section 3:** Water Use, and Water Supply Conservation and Emergency By-law

- A. Authority. This By-law is adopted by the Town of Maynard ("Town") under its police powers to protect public health and welfare and implements the Town's authority to regulate water use pursuant to Massachusetts General Law, Ch. 40, Section 41A, conditioned upon a Declaration of Water Supply Emergency or a Declaration of Water Supply Conservation declared by the Town or by the Department of Environmental Protection ("DEP").
- B. Purpose. The purpose of this By-law is to protect, preserve, and maintain the public health, safety, and welfare whenever there is in force a State of Water Supply Conservation or a State of Water Supply Emergency by providing for enforcement of any duly imposed restriction, requirements, provisions or conditions imposed by the Town or by the DEP.
- C. Definitions

Conservation Restriction as define in Section 5.

Outdoor Water Use shall mean all domestic and commercial use of water outdoors, including, but not limited to watering lawns, watering gardens, hydroseeding, power-washing houses, cleaning gutters, washing cars, filling swimming pools, and use of water-powered equipment.

Person shall include, but not limited to, any individual, corporation, Trust, partnership, limited liability company or partnership or any other form of association, or entity. The Town and its respective departments, boards, commissions, and committees, with the exception of the Maynard Fire Department (Section 10), are included in the definition of Person under this By-law.

State of Water Supply Emergency shall mean a State of Water Supply Emergency

declared by the DEP under Massachusetts General Law Ch. 21G, § 15-17.

State of Water Supply Conservation shall mean a determination by the Town, through the Select Board (“Board”) acting as the Department of Public Works or as Water Commissioners that water conservation is necessary to avoid a State Water Supply Emergency, pursuant to Sections 4 and 8 of this By-law.

State of Violation shall mean a pattern of violation of these water use restrictions by any Person or at a residential or business location.

Water Users or Water Consumers shall mean all public and private Users of the Town’s public water system, irrespective of any Person’s responsibility for water used at any particular facility and for payment of water bills.

**Section 4:** Declaration of a State of Water Supply Conservation. The Town, through its Board acting as the Department of Public Works or as Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are necessary and appropriate to ensure an adequate supply of water to all water consumers. Public Notice of a State of Water Supply Conservation shall be given under Section 6 of this By-law before the Restrictions under Section 5 may be enforced. The Board may also declare State of Water Supply Conservation if it is advised by its consultants or the DEP that a shortage of water is imminent if conservation measures are not taken to protect the water supply.

**Section 5:** Restricted Water Use. 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 water supply. The applicable restrictions, conditions, or requirements shall be included in the Public Notice required under Section 6.

Level 1 Conservation Restrictions: Under Level 1, Odd/Even Outdoor Water Use requirements shall be in effect. Outdoor use of water is restricted to homes and businesses with odd building numbers on odd-numbered days, and with even building numbers on even-number days.

Level 2 Conservation Restrictions: Under Level 2, Odd/Even Outdoor Water Use with Restrictions on all use except watering of gardens with a hand-held device shall be in effect. Under Level 2, lawn watering, car washing, all automated outdoor watering devices, and other outdoor uses of water are prohibited. Residents and businesses may water flower and vegetable gardens only with a hose or other hand-held watering device.

Level 3 Conservation Restrictions: Under Level 3, All Outdoor Water Use is Prohibited. The Board shall specify the Level of Conservation Restriction as defined in Section 5 in effect at any time that it declares a State of Water Supply Conservation. The Board may, by majority vote, authorize the Department of Public Works to specify and modify the applicable level of Conservation Restriction when water conservation is needed based upon day-to-day observations of the conditions of the water supply.

**Section 6:** Public Notification; State of Water Supply Conservation; Notifying DEP.

Notification of any provision, restriction, requirement, or conditions imposed by the Town of Maynard as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, and by other such means reasonably calculated to reach and inform all users of water that a State of Water Supply Conservation exists. Any restriction imposed by Section 5 of this By-law shall not be effective until publication in newspaper of general circulation is provided. Notification of the State of Water Supply Conservation shall also be provided to the Massachusetts DEP within 14 days of Declaration of Water Supply Conservation.

**Section 7:** Termination of a State of Water Supply Conservation. A State of Water Supply Conservation may be terminated by a majority vote of the Board, upon a determination that the water supply shortage no longer exists. Public Notice of the termination of the State of Water Supply Conservation shall be given by publication in a newspaper of general circulation in the Town, in addition to by other reasonable means determined to reach and inform users.

**Section 8:** State of Water Supply Emergency; Compliance with DEP Orders. Upon notification to the Board that a Declaration of Water Supply Emergency has been issued by the DEP, no person shall violate any provision, restriction, requirement, or condition of any order approved or issued by the DEP, intended to bring an end to the State of Emergency. Provisions, restrictions, requirements, or conditions stipulated by the DEP may not be limited to those set forth in Section 5 of the By-law.

**Section 9:** Penalties.

- A. Any person violating this By-law or any provisions, restrictions, requirements, or conditions set forth by DEP in a State of Water Emergency shall be liable for penalties imposed by the Town as follows:

First Offense	Written Warning of Violation
Second Offense	\$50.00 Fine
Third Offense	\$100.00
Subsequent Offenses	\$200.00 Fine

- B. Each incident of violation constitutes a separate offense under this By-law.
- C. Fines shall be recovered by inclusion on the next water bill for the location at which the offense took place, following written notice of the Town's intent to impose the fine, or by civil or criminal enforcement of this By-law, as the Town may elect.
- D. After four or more offenses, the Town may, by a majority vote of the Board, terminate water service to any location that is determined to be in a State of Violation. Prior to the restoration of water service to a location where water service has been terminated, Persons determined to be in a State of Violation shall pay a \$500 service connection fee in addition to any fines owed, and must have a hearing before the Board in order to request restoration of water service.

**Section 10:** Exceptions. Nothing in this By-law shall be construed to restrict or prohibit

outdoor use of water by the Maynard Fire Department or by any Person for the purpose of extinguishing fires or performing other duties or services necessary to protect the life, health, or property of any Person. This By-law also does not prohibit outdoor use of water by the Maynard Fire Department as part of required training or maintenance and testing of equipment normally used to extinguish fires. The By-law also does not apply to outdoor use of water by the Town of Maynard as part of activities needed to test, maintain, or repair the public water system.

**Section 11:** Severability. The invalidity of any portion of the By-law shall not invalidate any other portion or provision thereof.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 32

#### WETLANDS ADMINISTRATION

##### **Section 1: Purpose**

- A. The purpose of this By-law is to maintain the quality of surface water, the quality and level of the ground water table and water recharge areas for existing, or potential water supplies; to protect the public health and safety; to protect persons and property against the hazards of flood water inundation; to protect the community against the costs which may be incurred when unsuitable development occurs in wetland resource areas; and to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities for the benefit and welfare of the present and future inhabitants of the Town of Maynard.
- B. Accordingly, this By-law protects the wetlands, related water resources, and certain adjoining land areas in the town by providing for prior review and control of activities deemed to have a significant or cumulative adverse effect upon wetlands values, including but not limited to the following: protection of public and private water supply, protection of ground water, flood control, erosion and sedimentation control, storm damage prevention, avoidance of water and soil pollution, protection of fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the “wetlands values protected by this By-law”). This By-law is intended to utilize the Home Rule authority of values, with additional standards and procedures to augment those of the Wetlands Protection Act, Massachusetts General Law, Ch. 131, §40 and Regulations hereunder, 310 CMR 10.00.

##### **Section 2: Jurisdiction**

In accordance with this purpose no person shall remove, fill dredge, build upon, degrade, pollute, discharge into, or otherwise alter the following resource areas: any freshwater wetland; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds; rivers; streams; creeks; lands under water bodies; lands subject to flooding by ground water, surface water or storm flow (collectively the “resource areas protected by this By-law”); and lands within 100 feet, or otherwise described in Section 9. Definitions.

##### **Section 3. Conditional Exceptions**

- A. The application and permit required by this By-law shall not be required for maintaining, repairing, replacing, or enlarging an existing and lawfully located single family residential structure or appurtenance thereto unless said filing is otherwise required by state or federal law.
- B. The application and permit required by this By-law shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services,

provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

- C. The application and permit required by this By-law shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use at the time the work takes place, provided that written notice has been given to the Commission prior to the commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- D. The application and permit required by this By-law shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this By-law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.
- E. Other than state in this section, the exceptions provided in the Wetlands Protection Act, Massachusetts General Law L Ch. 131, § 40 and Regulations 310 CMR 10.00, shall not apply under this By-law.

#### **Section 4: Applications for Permits and Requests for Determination**

- A. Written application shall be filed with the Commission to perform activities affecting resource areas and buffer zones protected by this By-law. The permit application shall include such information and plans as are deemed necessary by the Commission as specified in the By-law regulations to describe proposed activities and their effects on the resource areas protected by this By-law. No activities shall commence without receiving and complying with a permit issued pursuant to this By-law.
- B. Where this By-law and the Wetlands Protection Act Massachusetts General Law Ch. 131, §40, and Regulations, 310 CMR 10.00 have concurrent jurisdiction the Commission shall accept the Notice of Intent and plans filed under the Wetlands Protection Act as the permit application and plans under this By-law for those parts of the project where precise overlap exists, provided all pertinent areas and activities subject to the jurisdiction of this By-law and all information required by By-law regulations are addressed.
- C. At the time of the permit application, the applicant shall pay a filing fee according to the schedule in the associated “Maynard Wetlands Protection Regulations”.

- D. The fee is not refundable. The fee is in addition to that required by the Wetlands Protection Act, General Law Chapter 131 §40, and Regulations, 310 CMR 10.00. Town, county, state and federal projects are exempt from the filing fee. The fee for an application for a modification of a permit will be the fee as calculated in the ‘Maynard Wetlands Protection Regulations’.
- E. Any person desiring to know whether or not a proposed activity or an area is subject to this By-law 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
- F. Upon receipt of a permit application or RFD, or at any point in its deliberations, the Commission may deem it necessary to obtain expert engineering or other outside consultant services in order to reach a final decision on the application. The specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydro geologic and drainage analysis, and environmental or land use law.

#### **Section 5: Notice and Hearings**

- A. Any person filing a permit application with the Commission shall within seven (7) days after such person is informed of the date and time of the hearing thereon, give written notice by certificate of mailing, 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, including owners of land directly opposite on any public or private street or way, including any in another municipality or across a body of water. The notice to abutter shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.
- 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 Determination of Applicability in writing within 7 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
- E. The Commission shall issue its permit in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
- F. The Commission shall combine its hearing under this By-law with the hearing

conducted under the Wetlands Protection Act, Massachusetts General Law, Ch. 131, §40, and Regulations, 310 CMR 10.00 instances of concurrent jurisdiction.

- G. With the consent of the applicant the Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or other deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in Section 6. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

#### **Section 6: Coordination with Other Boards**

As appropriate the Conservation Commission may choose to solicit the advice and opinions of other Town boards and officials in the course of its deliberations. Town boards and officials shall be entitled to file written comments and recommendations with the Commission at or before the public hearing. The Commission shall take any such comments and recommendations into account but shall not be bound by them. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

#### **Section 7: Permits and Conditions**

- A. The Commission, after a public hearing, shall issue or deny a permit for the activities requested within 21 days of the close of the hearing. If it issues a permit, the Commission shall impose such conditions as it 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 foreseeable future activities.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this By-law; 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 By-law; and where no conditions are adequate to protect those values.
- C. Lands within 100 feet of wetlands resource areas are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resource, either immediately, as a consequence of construction, or overtime, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and harm to wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover in part or all of the 100-foot area and set other conditions on this area, unless the applicant provides evidence deemed sufficient by the Commission that the area or part of it may be disturbed without harm to the values protected by the law.

- D. A permit shall expire three years from the date of issuance. Any permit shall be renewed for additional one year periods if a request for renewal is received in writing by the Commission at least thirty (30) days prior to expiration of the permit, and providing the Commission finds that (1) good cause has been shown for such extension and (2) such extension will not have significant adverse effects, immediate or cumulative, upon any of the wetland values protected by this By-law. 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.
- E. The Commission shall, after receiving a written request for a Certificate of Compliance, inspect the resource area and buffer zone where any activity governed by a permit issued under this By-law was carried out. If such activity has been completed in accordance with said permit, the Commission shall within twenty-one (21) days after such a request issue a Certificate of Compliance evidencing such.
- F. Violations of this By-law, submission of false or erroneous information, or new information that substantially alters the likely impact of the project on wetlands resources or values may cause the Commission to revoke or modify a permit or determination issued under this By-law after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to Section 5 and Section 6, and a public hearing.
- G. The Commission in an appropriate case may combine the permit or determination issued under this By-law with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act, Massachusetts General Law, Ch. 131, § 40, and Regulations, 310 CMR 10.00.
- H. 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. Such certification shall include the book and page or instrument number and date.

#### **Section 8: Regulations**

- A. After the public notice and public hearing, the Commission shall promulgate reasonable rules and regulations to effectuate the purposes of this By-law. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this By-law.
- B. At a minimum these regulations shall define key terms in this By-law not inconsistent with the By-law and procedures governing the amount and filing of fees.

#### **Section 9: Definitions.** The following definitions shall apply in the interpretation and implementation of this By-law.

- A. The term “bank” shall include the land area which normally abuts confines of 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, in addition to that already defined under the Wetlands Protection Act, Massachusetts General Law, Ch. 131, § 40 and Regulations there under, 310 CMR 10.00, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool community species, regardless whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries. The presumption of essential habitat value may be overcome by the presentation of credible evidence, which in the judgment of the Commission demonstrates that the basin or depression does not provide the habitat functions as specified in the By-law regulations. The buffer zone for vernal pools shall extend 1,000 feet from the mean annual high-water line defining the depression, or one-half of the distance between the vernal pool and any existing house foundation, whichever is smaller. In either case the buffer zone for vernal pools shall not extend over existing lawns, gardens, landscaped or developed areas.
- C. The term “existing” in the determination of buffer zones shall mean existing as of the date this By-law becomes effective.
- D. The term “isolated land subject to flooding” shall include an area, depression, or basin that holds at minimum one-eighth acre-foot of water and at least six inches of standing water once a year. Not included are swimming pools, artificially lined ponds or pools, or constructed wastewater lagoons. The buffer zone for isolated land subject to flooding shall be 25 feet.
- E. The term “pond” shall include any open body of fresh water with a surface area observed or recorded within the last ten years of at least 5,000 square feet. Ponds shall contain standing water except for periods of extended drought. Not included are swimming pools, artificially lined ponds or pools, or constructed wastewater lagoons. The buffer zone for ponds under 10,000 square feet shall extend 100 feet from the mean annual high-water or one-half of the distance from existing house foundation, whichever is smaller, but in no case shall the buffer zone include existing lawns, gardens, landscaped or developed areas.
- F. 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.
- G. The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town By-laws, administrative agency, public or quasi-public corporation or body, this municipality,

and any other legal entity, its legal representatives, agents, or assigns.

- H. The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protect by this By-law:
1. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
  2. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
  3. Drainage, or lowering of water level or water table;
  4. Dumping, discharging, or filling with any material which may degrade water quality;
  5. Placing of fill, or removal of material, which would alter elevation;
  6. Driving of piles, erection, or repair of buildings, or structures of any kind;
  7. Placing of obstructions or objects in water;
  8. Destruction of plant life including cutting of trees;
  9. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
  10. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or ground water;
  11. Incremental activities which have or may have a cumulative adverse impact on the resource areas protected by this By-law.
- I. Except as otherwise provided in this By-law or in regulations of the Commission the definitions of terms in this By-law shall be as set determination, which may in an appropriate case be combined with a Certificate of Compliance issued under the Wetlands Protection Act. A Certificate of Compliance may specify conditions in the permit, which will continue to apply for a fixed number of years or permanently and shall apply to all owners of the land.

### **Section 10: Security**

As part of a permit issued under this By-law, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.

**Section 11: Enforcement**

- A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas and buffer zones protected by this By-law, 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 By-law.
- B. Where the Commission deems it necessary to carry out its duties under this By-law by entering privately owned land it shall do so with the authority of the property owner and shall be subject to the limitations imposed by the applicable federal and state laws. With the authority of the property owner or his/her designee the Commission may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary.
- C. The Commission shall have authority to enforce this By-law, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this By-law may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.
- D. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
- E. Any person who violates any provision of this By-law, or regulations, permits, or administrative orders issued thereunder, shall be served with a Notice of Violation enumerating the alleged violations. If after ten business days the Commission has not received what it deems to be either (a) sufficient evidence demonstrating that no violations have occurred, or (b) a filing that will remove the violations along with evidence that sufficient progress is being made to correct the violations, then the violator shall be punished by a fine of \$100 per offense. Beginning ten business days after the date of the Notice of Violation 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 By-law, regulations, permits, or administrative orders violated shall constitute a separate offense.
- F. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in Massachusetts General Law, Ch. 40, § 21D.

**Section 12: Burden of Proof**

The applicant for a permit shall have the burden of proving by a preponderance of credible evidence that the work proposed in the permit application will not have significant or cumulative negative effect upon the resource area values protected by this By-law. Failure to provide evidence that in the judgment of the Commission is adequate to support this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

**Section 13: Appeals**

A decision of the Commission shall be reviewable in the Superior Court in accordance with

Massachusetts General Law, Ch. 249, § 4.

**Section 14:** Relation to the Wetlands Protection Act

This By-law is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, Massachusetts General Law, Ch. 131, § 40, and Regulations, 310 CMR 10.00, thereunder.

**Section 15:** Severability

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

# **TOWN OF MAYNARD**

## **BY-LAWS**

### **CHAPTER 33**

#### **STORM DRAIN SYSTEM**

##### **Section 1: Purpose**

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Maynard water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- C. The objectives of this by-law are:
  - 1. to prevent pollutants from entering the Town of Maynard municipal separate storm sewer system (MS4);
  - 2. to prohibit illicit connections and unauthorized discharges to the MS4;
  - 3. to require the removal of all such illicit connections;
  - 4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
  - 5. to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

##### **Section 2: Definitions. For the purposes of this by-law, the following shall mean:**

- A. **AUTHORIZED ENFORCEMENT AGENCY:** The Department of Public Works (hereafter DPW), its employees or agents designated to enforce this by-law.
- B. **BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
- C. **CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.
- D. **DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.
- E. **GROUNDWATER:** Water beneath the surface of the ground.
- F. **ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether

said connection was previously allowed, permitted, or approved before the effective date of this by-law.

- G. **ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 8, (a), of this by-law.
- H. **IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.
- I. **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Maynard.
- J. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.
- K. **NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.
- L. **PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- M. **POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:
  - 1. paints, varnishes, and solvents;
  - 2. oil and other automotive fluids;
  - 3. non-hazardous liquid and solid wastes and yard wastes;
  - 4. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
  - 5. pesticides, herbicides, and fertilizers;
  - 6. hazardous materials and wastes; sewage, fecal coliform and pathogens;
  - 7. dissolved and particulate metals;
  - 8. animal wastes;
  - 9. rock, sand, salt, soils;
  - 10. construction wastes and residues; and
  - 11. any noxious or offensive matter of any kind.

- N. **PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
- O. **RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
- P. **STORMWATER:** Storm water runoff, snow melt runoff, and surface water runoff and drainage.
- Q. **SURFACE WATER DISCHARGE PERMIT.** A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
- R. **TOXIC OR HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
- S. **WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.
- T. **WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.
- U. **WASTEWATER:** Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

**Section 3: Applicability.** This by-law shall apply to flows entering the municipally owned storm drainage system.

**Section 4: Authority.** This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

**Section 5: Responsibility for Administration.** DPW shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon DPW may be delegated in writing by the DPW to employees or agents of DPW.

**Section 6: Regulations.** DPW may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

**Section 7: Prohibited Activities**

- A. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.
- B. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from DPW.

**Section 8: Exemptions**

- A. Discharge or flow resulting from fire fighting activities.
- B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
  - 1. Waterline flushing;
  - 2. Flow from potable water sources;
  - 3. Springs;
  - 4. Natural flow from riparian habitats and wetlands;
  - 5. Diverted stream flow;
  - 6. Rising groundwater;
  - 7. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
  - 8. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
  - 9. Discharge from landscape irrigation or lawn watering;
  - 10. Water from individual residential car washing;
  - 11. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
  - 12. Discharge from street sweeping;
  - 13. Dye testing done by the Board of Health or their designee or with prior consent of the DPW prior to the time of the test;
  - 14. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

15. Discharge for which advanced written approval is received from the DPW as necessary to protect public health, safety, welfare or the environment.

**Section 9:** Emergency Suspension of Storm Drainage System Access. DPW may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, DPW or the Board of Health may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

**Section 10:** Notification of Spills. Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the DPW. In the event of a release of non-hazardous material, the reporting person shall notify the DPW no later than the next business day. The reporting person shall provide to the DPW written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken, to prevent its recurrence. Such records shall be retained for at least three years.

**Section 11: Enforcement**

- A. DPW or an authorized agent of DPW shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil Relief. If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the DPW may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. DPW or an authorized agent of DPW may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:
  1. elimination of illicit connections or discharges to the MS4;
  2. performance of monitoring, analyses, and reporting;
  3. that unlawful discharges, practices, or operations shall cease and desist; and
  4. remediation of contamination in connection therewith.

- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Maynard may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- E. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Maynard, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with DPW within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of DPW affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59,57 after the thirty-first day at which the costs first become due.
- F. Criminal Penalty. Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$ 300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Maynard may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and Ch. 15, §5 of the Town of Maynard General By-laws, in which case the DPW and the town administrator shall be the enforcing authority. The penalty for the 1st violation shall be a written warning and/or \$100. The penalty for the 2nd violation' shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- H. Entry to Perform Duties Under this By-Law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as DPW deems reasonably necessary.
- I. Appeals. The decisions or orders of DPW shall be final. Further relief shall be to a court of competent jurisdiction.
- J. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

**Section 12: Severability.** The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this by-law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this by-law.

**Section 13: Transitional Provisions.** Residential property owners shall have 180 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 34

#### STORMWATER MANAGEMENT

##### **Section 1. General Provisions**

- A. Purpose. The purpose of this Stormwater Management Bylaw is to:
1. Protect, maintain and improve the public safety, environment, health, and general welfare by preventing or diminishing stormwater impacts resulting from site development and land disturbance; and
  2. Establish a mechanism by which the Town can meet the requirements of its National Pollutant Discharge Elimination System (NPDES) general permit.
- B. Authority. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule Statutes, and pursuant to the rules and regulations of the Federal Clean Water Act found at 40 CFR 122.34.
- C. Compatibility with other permit and bylaw requirements. This bylaw is not intended to interfere with, abrogate or annul the Maynard Storm Drain System Bylaw or any other bylaw, rule or regulation, statute, or other provision of law. The requirements of this bylaw should be considered minimum requirements, and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

##### **Section 2. Scope and applicability**

- A. Applicability. This bylaw shall be applicable to any of the following activities:
1. Any activity that results in a land disturbance greater than 10,000 square feet.
  2. Any development project that:
    - a. Requires a special permit and/or site plan review under the Maynard Zoning Bylaw; or
    - b. Requires approval of a definitive plan under the Massachusetts Subdivision Control Law.
  3. Any activity that disturbs less than 10,000 square feet if:

- a. The activity is part of a larger common plan of alteration or development that will disturb more than 10,000 square feet; or.
  - b. The new activity will result in a cumulative disturbance of more than 10,000 square feet since the effective date of this bylaw, to land that is part of a larger parcel held in common ownership or control at any time since said date. For purposes of this Section, ownership by related or jointly controlled persons or entities shall be considered common ownership. In such cases, the new activity is prohibited until either:
    1. All activities that previously disturbed land as described in this Section 2.A.(3 )(b) are brought into full compliance with the requirements and standards of this bylaw, or
    2. The application for permit under this bylaw for the new activity includes bringing the land previously disturbed into full compliance with requirements and standards of this bylaw. If the involved land is not currently in common ownership, all owners of the involved land must jointly apply for the permit.
  4. Any undeveloped vacant lots, where any activity results in the alteration of drainage characteristics, including, but not limited to, construction of buildings and the creation of impervious surface.
- B. Interpretation: In determining Applicability, the following factors shall also be adhered to:
1. A development or alteration of land shall not be segmented or phased in a manner to avoid compliance with this bylaw.
  2. Alteration of the municipal separate storm sewer system (MS4): No person shall modify or remove any part of the MS4 including surface drainage or piping that crosses private property if it serves the public as part of the drainage system without prior approval of the Stormwater Authority and the Maynard Department of Public Works.
- C. Permits and Exemptions. No person shall alter land within the Town of Maynard meeting the applicability of this bylaw without having obtained a stormwater management permit, except as follows:
1. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this bylaw;
  2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act, MGL c. 131, § 40, and its implementing regulations at 310 CMR 10.04;
  3. Normal maintenance of existing landscaping, gardens, or lawn areas;

4. The construction, reconstruction, or repair of any fence or wall that will not alter the existing terrain or drainage patterns;
5. Emergency repairs to any stormwater management facility or practice that poses a threat to public safety or health, or as deemed necessary by the Stormwater Authority.
6. Repair or replacement of an existing septic system.
7. Construction of utilities (gas, water, electric, telephone, etc.) other than stormwater facilities, which will not alter terrain, ground cover, or drainage patterns, provided the work is performed in compliance with the Federal Clean Water Act, NPDES requirements and other applicable federal, state and local laws.
8. Customary cemetery management within the limits of the existing improved cemetery grounds. This does not include cemetery expansion into undeveloped area.
9. Projects requiring a special permit from the Planning Board where no site changes are proposed, such as for projects that only propose to change building façade or signage.

**Section 3. Definitions.** The definitions contained herein apply to the interpretation and implementation of this bylaw. Terms not defined in this section shall be as contained in the Massachusetts Stormwater Management Regulations and Stormwater Management Handbook. Any other terms not defined in the foregoing described documents shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning. Additional definitions may be adopted by separate regulation.

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

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

**DEVELOPMENT** - Any alteration, construction, disturbance, improvement or modification of land or structures to accommodate a use, expansion of use or redevelopment on a site.

**DISTURB** - See ALTER.

**LOW IMPACT DEVELOPMENT (LID)** – An approach to environmentally friendly land use planning and stormwater management that includes a suite of landscaping and design techniques that attempt to maintain the natural, pre-developed ability of a site to manage rainfall. LID techniques typically preserve natural drainage characteristics and/or capture

water on site, filter it through vegetation, and let it soak into the ground where it can recharge the local water table rather than becoming surface runoff.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS** shall mean the requirements described in the Massachusetts Stormwater Handbook as they may be amended from time to time, that address water quality (pollutants) and quantity by requiring the implementation of a wide variety of stormwater management strategies.

**MS4 PERMIT** – General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** - A conveyance or system of conveyances designed or used for collecting, recharging, treating and / or conveying stormwater, including any road with a drainage system, street, gutter, curb. inlet, catch basin, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir or other drainage structures that comprise the storm drain system owned and operated by the Town of Maynard.

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)** -As authorized by the Federal Clean Water Act, the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

**NEW DEVELOPMENT** – Any construction activities or land alteration resulting in total earth disturbances equal to or greater than 10,000 square feet (activities that are part of a common plan of development disturbing greater than 10,000 square feet) on an area that has not been previously developed to include impervious cover.

**OFFSITE MITIGATION** - An approach whereby pollutant removal practices are implemented at redevelopment or retrofit sites at another location, approved by the MS4, in the same watershed and achieves the same pollutant removal equivalents specified in the local stormwater bylaws or ordinances.

**PERSON** -The term PERSON as used in this bylaw shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Town of Maynard or agencies thereof, or any other legal entity or its legal representatives, agents or assigns.

**REDEVELOPMENT** – Any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbances equal to or greater than 10,000 square feet (or activities that are part of a larger common plan of development disturbing greater than 10,000 square feet) that does not meet the definition of new development.

**RUNOFF** -A term used to describe the water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into streams or other surface waters or land depressions.

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

**STORMWATER** -Water that accumulates on land because of storms, and can include runoff from urban areas such as roads and roofs.

**STORMWATER AUTHORITY** -The Town of Maynard Conservation Commission acting pursuant to this bylaw to administer, implement and enforce this bylaw and to adopt regulations pursuant to it. Also referred in this bylaw as the Commission.

**STORMWATER MANAGEMENT** -The use of structural or nonstructural practices that are designed to reduce and control stormwater runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

**STORMWATER MANAGEMENT PERMIT** -A permit issued by the Stormwater Authority, after review of an application, plans, calculations, and other supporting documents, approving a system that is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

**UNDEVELOPED VACANT LOT** - A parcel that has not been previously developed to include buildings and/or impervious surface.

#### **Section 4. Administration.**

- A. The Stormwater Authority. The Conservation Commission shall be the permit granting authority for the issuance of a stormwater management permit and shall administer, implement and enforce this bylaw. Such permit applications shall be submitted, considered and issued only in accordance with the provisions of this bylaw and regulations adopted pursuant to this bylaw. Any powers granted to or duties imposed on the Commission may be delegated in writing by the Commission to its employees or agents or other municipal employees as appropriate.
- B. Stormwater Management Regulations. The Stormwater Authority may adopt and periodically amend rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, clerical, inspection, or consultant fees), procedures and administration of this bylaw after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least **14** days before the hearing date. After public notice and public hearing, the commission may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure of the Stormwater Authority to promulgate such rules and regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this bylaw.
- C. Stormwater Management Handbook, Massachusetts Stormwater Management Regulations, and federal MS4 Permit requirements. Unless specifically altered by this bylaw or its regulations, the Stormwater Authority will use the latest accepted version of the Massachusetts Stormwater Management Regulations as contained in the Massachusetts Wetlands Protection Act Regulations at 310 CMR 10.05 (6)(k) and the Massachusetts Stormwater Handbook as issued by the Massachusetts Department of Environmental Protection, as these regulations and handbook may be amended from time to time, for criteria, policy, standards, stormwater systems design

and engineering, compliance documentation requirements and general information for the execution of the provisions of this bylaw. Unless specifically altered in this bylaw and its regulations, the Stormwater Authority shall presume that Stormwater management practices designed, constructed and maintained in accordance with the Massachusetts Stormwater Regulations and Stormwater Management Handbook meet the performance standards of this bylaw. For requirements that are inconsistent between the Massachusetts Stormwater Management Handbook and the federal MS4 Permit, the Stormwater Authority will enforce the more stringent of the state and federal requirements.

- D. Application for Permit To file for a permit, an applicant shall submit an application to the Stormwater Authority conforming to the application requirements set forth in the regulations adopted pursuant to this bylaw.
1. A written request for a permit with a narrative describing the project and how the proposed project will meet the requirements of the bylaw and applicable regulations.
  2. Plans and documentation as necessary per the Massachusetts Stormwater Management Regulations and Massachusetts Stormwater Management Handbook or the MS4 Permit Requirements, whatever is more stringent, as applicable for the scope of the project. These may include but are not limited to Existing Conditions Topographic Plan, Grading and Drainage Plan, Landscape Plan, Erosion and Sediment Control Plan, Stormwater Pollution Prevention Plan, Long Term Pollution Prevention Plan, Stormwater Systems Operation and Maintenance Plan, Stormwater Hydrologic Calculations, Soils Information and Testing Information, Stormwater System Design Calculations.
  3. Plans and Documentation shall be prepared, stamped and signed by Massachusetts registered professionals in compliance with applicable Massachusetts registration laws and regulations or, where such registration is not required for the scope and discipline relative to the project, the plans and documentation may be prepared by person(s) who can demonstrate to the satisfaction of the Stormwater Authority proficiency in the field of stormwater management as appropriate to the scope of the project.
  4. Application fee as required by the Regulations adopted under this bylaw.
- E. Actions by the Stormwater Authority. Upon receipt of a complete application for a stormwater management permit, the Stormwater Authority shall review the application at a scheduled and duly posted public meeting within 21 days of receipt, and shall take final action within 21 days from the date of the meeting unless such time is extended by written agreement between the applicant and the Authority. The Stormwater Authority may take any of the following actions on an application for a stormwater management permit:
1. Approve the application;
  2. Approve the application with conditions; and / or waivers.

3. Disapprove the application.

F. **Waivers.** The Stormwater Authority may waive strict compliance with the requirements of this bylaw or rules and regulations promulgated hereunder, if it determines that a particular requirement or requirements are unwarranted because of the size or character of the project and / or the natural conditions of the site, and where such action:

1. Is allowed by federal, state and local laws and regulations;
2. Is in the overriding public interest; and
3. Is not inconsistent with the purpose and intent of this bylaw.

Any request for a waiver of any provision(s) of this bylaw or rules and regulations shall be submitted in writing to the Stormwater Authority at the time of Application. Such requests shall clearly identify the provision(s) from which relief is sought and shall include information setting forth the reasons why, in the Applicant's opinion, the granting of such a waiver would meet the waiver criteria contained in this section.

G. **Appeals.** The decisions or orders of the Stormwater Authority shall be final. Further relief of a decision by the Stormwater Authority made under this bylaw shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with MGL c. 249, § 4.

H. **Fees.** The Stormwater Authority shall establish fees to cover expenses incurred by the Town in reviewing the application and monitoring permit compliance. As provided by GL Ch. 44 §53G, the Stormwater Authority may impose upon the applicant reasonable fees for the employment of outside consultants, engaged by the Stormwater Authority, for specific expert services.

## **Section 5. Enforcement**

A. **Enforcement authority.** The Stormwater Authority shall enforce this bylaw and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. As an alternative to criminal prosecution or civil action, the Stormwater Authority may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40 §21D and with the following penalty:

Penalty	First Offense	-Written warning
	Each subsequent offense	-\$100
Each day that such violation continues shall constitute a separate offense.		
Enforcing Person:	Conservation Agent	
	Conservation Commissioner	
	Department of Public Works Director	
	Police Officer	

- B. Penalties. Any person violating this bylaw is subject to any applicable penalties or other legal enforcement action by the Town.
- C. Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

**Section 6. Severability.** If any court of competent jurisdiction declares that any section, provision, paragraph, sentence, or clause of this bylaw, or any rule or regulation promulgated hereunder, is invalid or unconstitutional, any other section, provision, sentence or clause thereof, or other rule or regulation promulgated hereunder, shall remain in full force and effect.

**Section 7. Low Impact Development.**

- A. Low Impact Development (LID) site planning and design strategies shall be implemented unless infeasible in order to reduce the discharge of Stormwater from development sites.
- B. The Stormwater Authority may promulgate LID criteria within the Stormwater Management Regulations.

**Section 8. Offsite Mitigation.**

- A. Redevelopment projects may utilize offsite mitigation within the same watershed as the redevelopment site to meet the equivalent retention or pollutant removal requirements for the redevelopment site.
- B. The Stormwater Authority may promulgate offsite mitigation criteria within the Stormwater Management Regulations.

## TOWN OF MAYNARD

### BY-LAWS

#### CHAPTER 35

#### AFFORDABLE HOUSING TRUST

**Section 1.** Name of the Trust

The trust shall be called the “Town of Maynard Affordable Housing Trust Fund.”

**Section 2.** Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Maynard for the benefit of low and moderate income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase or otherwise real property, personal property, or money, both tangible and intangible, of every sort and description; to use such property, both real and personal, and money in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property and money held by the Trust and the net earnings thereof shall be used exclusively for the preservation and creation in the Town of Maynard of affordable housing for the purposes for which this Trust was formed.

**Section 3.** Board of Trustees

There shall be a board of trustees of the Maynard Affordable Housing Trust Fund, in this section called the board, which shall include five (5) Trustees, including: one (1) members of the Select Board, with the Trustees to be appointed by the Select Board. Trustees shall serve for a term not to exceed two years. A quorum is to be three (3) authorized trustees of the board. Only persons who are residents of the Town of Maynard shall be eligible to hold the office of Trustee. Trustees shall serve for a term of two years, except that two of the initial trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of the Select Board. Any Trustee who ceases to be a resident of the Town of Maynard shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the Town Clerk. Any Trustee may resign by written instrument, signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Select Board to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

**Section 4.** Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. c. 30A, §§ 18-25. A quorum at any meeting shall be a majority

of the Trustees, qualified and present in person.

**Section 5. Powers of Trustees**

The powers of the board of trustees, all of which shall be carried on in furtherance of the purposes set forth in General Laws Chapter 44 Section 55C, shall include the following:

- (1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from general laws chapter 44B; provided, however, that any such money received from general laws chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said general laws chapter 44B are reported to the community preservation committee of the city or town for inclusion in the community preservation initiatives report, form CP-3, to the department of revenue;
- (2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- (4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
- (5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
- (6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;
- (7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- (8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any

contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

(10) to carry property for accounting purposes other than acquisition date values;

(11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(12) to make distributions or divisions of principal in kind;

(13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(16) to extend the time for payment of any obligation to the trust.

#### **Section 6. Acts of Trustees**

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

#### **Section 7. Liability**

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein. The Trust is public employer and the Trustees are public employees for the purposes of G.L. Chapter 258. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. Chapter 268A.

#### **Section 8. Custodian of Funds**

The Town Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities.

**Section 9.** Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Select Board for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Select Board, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

**Section 10.** Titles

The title to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such Article.

TOWN OF MAYNARD

**BY-LAWS**

**CHAPTER 36**

**FINANCES - DEPARTMENTAL REVOLVING FUNDS**

**Section 1.** Purpose.

- A. This by-law establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E½.

**Section 2.** Expenditure Limitations.

- A. A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law without appropriation subject to the following limitations:
1. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund, except for those employed as school bus drivers.
  2. No liability shall be incurred in excess of the available balance of the fund.
  3. The total amount spent during a fiscal year shall not exceed the amount authorized by Town meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and finance committee.
  4. During the course of any fiscal year if any new revenue source becomes available for the establishment of a new revolving fund hereunder, such fund may be established in accordance herewith upon certification by the Town Accountant that the revenue source was not used in computing the most recent tax levy.

**Section 3.** Interest.

- A. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the general fund.

**Section 4.** Procedures and Reports.

- A. Except as provided in General Laws Chapter 44, § 53E½ and this by-law, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this by-law. The Town accountant auditor shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town accountant auditor provides the department, board, committee, agency or officer on appropriations made for its use.

## **Section 5.** Authorized Revolving Funds.

The Table establishes:

- a. Each revolving fund authorized for use by a town department, board, committee, agency or officer,
- b. The department or agency head, board, committee or officer authorized to spend from each fund,
- c. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the town accountant,
- d. The expenses of the program or activity for which each fund may be used,
- e. Any restrictions or conditions on expenditures from each fund,
- f. Any reporting or other requirements that apply to each fund, and the fiscal years each fund shall operate under this by-law.

<b>Revolving Fund</b>	<b>**Authorized Department to Spend</b>	<b>Revenue Source</b>	<b>Use of Fund</b>	<b>Fiscal Years</b>
Conserv Comm - Wetlands Bylaw Consultant Fees	Municipal Services	Fees for Wetlands Bylaw Consultants	Expenses & PT Wages Related to Administering the Consultant Fee Provision of the Wetlands Bylaw	Fiscal Year 2018 and subsequent years
Planning Board - Site Plan Review	Municipal Services	Site Plan Review, Special Permit & Subdivision Application Fees	Expenses & PT Wages Related to Site Plan Review, Special Permit, Subdivision Applications and Zoning Bylaw & Subdivision Regulation Revisions	Fiscal Year 2018 and subsequent years
Disposal - Drop Off Center	Department of Public Works	Household Hazardous Products, Yard Waste, Tires & Electronic Disposal Fees	Expenses & PT Wages Related to the Disposal of Household Hazardous Products, Yard Waste, Tires & Electronics	Fiscal Year 2018 and subsequent years
Board of Health - Licensing Fees	Municipal Services	Town of Maynard Food Establishment Inspection Fees Over \$10 (First \$10 Goes to GF)	Expenses & PT Wages Related to Food Establishment Inspections in Maynard	Fiscal Year 2018 and subsequent years
Council on Aging - COA Van Service	Council on Aging	Fees for the COA Van Service	COA Operational Expenses & PT Wages	Fiscal Year 2018 and subsequent years
Sealer of Weights & Measures	Municipal Services	Fees for Sealer of Weights & Measures Services	Sealer of Weights & Measures PT Wages & Expenses	Fiscal Year 2018 and subsequent years
Electrical/Wiring Inspection Services	Fire Department	Fee Amount Over \$15 for Wiring Inspector Services (First \$15 Goes to GF)	Wiring Inspector's PT Wages	Fiscal Year 2018 and subsequent years
Plumbing & Gas Inspection Services	Municipal Services	Fee Amount Over \$15 for Plumbing & Gas Inspector Services (First \$15 Goes to GF)	Plumbing & Gas Inspector's PT Wages and Allowable Expenses	Fiscal Year 2018 and subsequent years
Municipal Permitting	Municipal services	Fees collected to provide services in support of permit processing	Expenses and wages expended to provide support of permit processing	Fiscal Year 2018 and subsequent years

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 37

#### SOLID WASTE COLLECTION

**Section 1:** Overall Authority. The Board of Health shall be responsible for providing overall direction and enforcement of those areas of any of the solid waste programs that are assigned to it by state law, local bylaw, the Select Board or the Town Administrator. In furtherance hereof, and in accordance with G.L. c. 111 §31B the Board of Health shall make rules and regulations, including the establishment of fees, for the control of the removal, transportation or disposal of garbage, offal or other offensive substances. Additionally, the Board of Health shall make rules and regulations for the control of recycling and leaf and yard waste collections and disposal. The Board of Health shall hold a public hearing in accordance with G.L. c. 111 §31 prior to the adoption of said regulations.

**Section 2:** Day to Day Management. The Department of Public Works, shall be responsible for the establishment and overall management of the Town of Maynard collection, management and disposal of residential solid waste, including but not limited to curbside collection of trash, residential refuse, recycling, leaf collection, drop off collection, and shall conduct said management consistent with the Rules and Regulations established by the Board of Health. Notwithstanding the foregoing, the licensing of contractors and dumpsters shall remain under the management of the Board of Health.

**Section 3:** Violations and Penalties. Any person who violates any prohibition contained in the Solid Waste Regulations adopted by the Board of Health shall be subject to a fine of \$300.00 for each offense; where each day the offense occurs being deemed a separate offense and each improperly disposed of item shall constitute a separate offense. The fines noted hereunder shall be in addition to and not in place of any fine or penalty provided for by the General Laws of the Commonwealth of Massachusetts.

**Enforcement:** The Public Health Agent, Director of Public Works or designee, the Maynard Police Department, shall each have authority to enforce the provisions and issue citations as necessary of this bylaw.

TOWN OF MAYNARD

**BY-LAWS**

**CHAPTER 38**

**Repealed**

# TOWN OF MAYNARD

## BY-LAW

### CHAPTER 39

#### MARIJUANA LICENSE

**Section 1:** No person shall carry on the business cultivate, process, package, deliver, obtain, manufacture, process, package, brand, sell or otherwise transfer, or test marijuana or marijuana products, or otherwise operate a Marijuana Establishment as defined by Massachusetts General Laws Chapter 94G within the Town unless first duly licensed thereof by the Select Board.

**Section 2:** The Board may adopt reasonable rules and regulations related to the issuance of such licenses, including the fees to be paid therefore and the conditions to be satisfied by any applicant for such a license.

**Section 3:** Applicants for a license shall file an application on a form by the Select Board, signed under the penalties of perjury by the applicant, containing such information as the Select Board may reasonably require from time to time. Each applicant shall pay an application fee as may be reasonably determined from time to time by the Select Board.

**Section 4:** The Select Board must act upon the application at one of their next two regularly scheduled meetings, holding a public hearing thereon, with due written notice provided to the applicant of the time, date and location where such hearing will be heard.

**Section 5:** The Select Board may approve, deny or approve the application with conditions. Such decision shall be based on the evidence taken at the public hearing, consistent with the protection of the health, safety and welfare of the public, and consistent with the regulations promulgated by such board.

**Section 6:** The Select Board may issue orders as appropriate to aid in the enforcement of this regulation and may enforce these provisions in equity, including the request for injunctive relief, in a court of competent jurisdiction. Any failure to comply with any Order issued hereunder shall result in the issuance of a formal warning. Any failure to comply with such a warning shall result in a fine of one hundred dollars (\$100.00). Any failure to comply after the issuance of said initial fine may be punishable by a subsequent fine of three hundred dollars (\$300.00). Each day of a continued non-compliance shall constitute a separate violation. Further, the Select Board may hold a hearing, with notice to the licensee, to determine if such license should be modified, suspended or revoked.

**Section 7:** Home Rule Amendment [art. 89 of the Amendments to the Massachusetts Constitution]; Charter, Article 3, Section 3-2, Massachusetts General Laws, Chapter 94G, § 3, 935 CMR 500.000.

# TOWN OF MAYNARD

## BY-LAW

### CHAPTER 40

#### FIRE PREVENTION/SAFETY

**Section 1:** Any person or corporation doing any work, or modification to items related to fire prevention in the Town of Maynard shall apply for the appropriate permit through the Maynard Fire Department, and or the Maynard Building Department. Examples of situations where a permit is required are: Fire Alarm Systems, Sprinkler Systems, Oil Burners, Burners, Propane Tank Installations, and Oil Tanks installations, Removals or Building Demolition. Permits may require written plans and a narrative outlining the scope of work to be performed.

**Section 2:** A plans box may be required by the Maynard Fire Department on all major projects or renovations to large buildings, to be installed by the owner or designee.

**Section 3:** All buildings requiring a fire department connection for a sprinkler system or standpipe after the date of this document being accepted will be required to provide locking covers through the Knox Company for all external connections. Fire Department connections will be clearly marked above the respective connection at six feet from the grade at the connection. The size of the signage to be determined by the Fire Department during plans review.

**Section 4:** In any building where a sprinkler system is required, all risers and standpipes shall be mapped and marked with corresponding shut-off valve and location of said valve.

**Section 5:** Any work or modifications to items related to fire prevention may require an inspections and a test before said work is approved and inspected. If an inspection is required, a representative of the company performing the work is expected to be on hand. If plans are required, they shall be submitted in a timely manner in order for a proper review to take place.

**Section 6:** Every commercial occupancy or multi-family residential property consisting of three or more dwelling units is subject to an annual fire safety inspection, subsequent follow-up inspections, or an inspection if and when a complaint is filed with the fire department regarding the safety of the building. It is the building owner's responsibility to ensure the fire department has up to date contact information for all commercial or multi-family residential units with three dwellings or more.

**Section 7:** Any group including more than 1000 anticipated attendees wishing to hold or stage an event in Maynard for which a permit is required, shall check with the fire department prior to applying for a permit for a determination if the event could put participants, bystanders, and the general public at risk. The fire department will make the determination on whether or not a fire or EMS detail may be required for the safety of all involved.

# TOWN OF MAYNARD

## BY-LAW

### CHAPTER 41

#### MINIMUM PROPERTY STANDARDS OF COMMERCIAL AND INDUSTRIAL PROPERTIES

##### Section 1. Purpose and Scope.

**A. Purpose:** The purpose of this By-law is to establish standards of minimum maintenance for the exteriors of commercial and industrial buildings and structures, thus promoting economic vitality within the Town of Maynard. It will enable the Town to proactively ensure property maintenance compliance, thereby protecting the Town against substandard, dangerous, or unsanitary conditions.

**B. Intent:** Ensure Maynard's commercial and industrial properties remain in a condition that:

1. Protects existing businesses from negative effects of under-maintained property.
2. Encourages private investment.
3. Contributes to an atmosphere of commercial viability.

**A. Scope.** This By-law shall apply to all commercial and industrial properties within the Town of Maynard, except where such buildings and structures are otherwise specifically regulated by other applicable Town By-laws and State regulations. For the purpose of this By-law, residential condominiums and multi-family structures and developments of four (4) or more units shall be considered Commercial. A multi-family development with multiple structures need not be attached to be subject to this By-law.

##### Section 2. Definitions.

As used in this By-law, the following terms shall have the meanings indicated:

**A. Building** - A structure enclosed within exterior walls, built, erected, and framed of a combination of materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property.

**B. Building Commissioner** - The Building Commissioner of the Town of Maynard and any designee.

**C. Compliance Agent** - The Building Commissioner, the Board of Health Agent, the Town Planner, the Conservation Agent, the Fire Chief, the Police Chief, and/or their designated agents. In instances involving jurisdiction of more than one (1) Compliance Agent, the Building Commissioner shall designate the lead Compliance Agent for the case.

**D. Owner** - A person or entity who, alone or severally with others:

1. Has legal title to any building or parcel of land, vacant or otherwise;
2. Has legal or equitable title to any building or has care, charge, or control of any

building in any capacity; including but not limited to agent, executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the holder of legal title; or

3. Is a tenant with a legal right to possess an entire building or property; or
4. Is a mortgagee in possession of any building or property; or
5. Is an agent, trustee, receiver, or other person appointed by the courts and vested with possession or control of a building or property.

**E. Office of Municipal Services (OMS)** - Planning, Conservation, Building and Health Departments of the Town of Maynard.

**F. Vacant Lot** - A vacant lot is a parcel of land that currently has no buildings. This includes lots that may have non-building improvements on it.

### **Section 3. Maintenance Requirements for Commercial and Industrial Properties.**

**A.** The property owner shall be responsible for ensuring commercial and industrial properties comply with the standards of minimum maintenance below. The Compliance Agent, appropriate to his or her specific area of jurisdiction, shall determine if and when violations of this section exist.

1. The exterior of all property areas and yards shall be maintained in a clean and sanitary condition, free from debris, garbage, refuse, overgrown vegetation, and other hazards that may result in unsafe circumstances, create unhealthy conditions, cause unlawful environmental degradation, or otherwise negatively affect the property or the surrounding area.
2. Exterior walls. All exterior walls shall be maintained in such a condition as to prevent unauthorized entry, infestations, vandalism, or other potentially unsafe or unhealthy conditions.
3. Display windows, signage, exterior fixtures, and entrances shall be kept clean and maintained in good repair to prevent unauthorized entry, infestations, vandalism, other potentially unsafe or unhealthy conditions, or other negative effects on the property or the surrounding area. Boarding up of windows or entrances for a period exceeding two (2) weeks is prohibited unless authorized by the Compliance Agent. Signage frames, fixtures, casings, and any associated hardware/materials shall be kept in good repair and maintained intact. Extensions granted by the Compliance Agent shall be for a specified period of time.
4. Fences. All fences on the premises shall be maintained so that they do not constitute a hazard, blight, or condition of disrepair. Examples of hazards, blight, or conditions of disrepair are inclusive of, but not limited to, leaning fences, fences that are missing slats or blocks, graffiti, or rotting or damaged materials.
5. Alleys and passageways. All alleys and passageways shall be kept clean and free of debris by the property owner or designee. Adjacent properties are responsible for maintaining alleys and passageways to the center line of said alley or passageway unless under the sole control of one owner.
6. Storage in yards. Yards shall not be used to store equipment, appliances, or building materials without screening from street view and without being in compliance with an approved use pursuant to the Maynard Protective Zoning By-laws. Front yard storage of these items is prohibited, however, this does not apply to

merchandise for sale by the business carried out on the premises provided it is located in a properly zoned district. Screening does not relieve the property owner of the requirement to comply with the regulations of the Conservation Commission, the Protective Zoning By-laws, or any other appropriate board/agency.

**7. Overgrowth.** No hedge, shrub, tree, or other vegetation shall overhang, extend, or protrude into any street, sidewalk, or public alley in a manner which obstructs or impedes the safe and orderly movement of persons or vehicles. Nothing in this subsection relieves the property owner of the requirement to obtain, from the Conservation Commission or any other appropriate board/agency, all necessary permits/approvals for the removal of such vegetation.

**8.** Vacant lots shall be free from any accumulation of noxious weeds, overgrowth, combustible or noncombustible materials, debris, refuse, rubbish or garbage, physical hazards, or rodent harborage and infestation.

**B.** Compliance with this By-law shall not relieve the owner of any obligations set forth in any other applicable state or local requirements, By-laws, regulations, codes, covenant conditions/ restrictions, and/or association rules and regulations. In case of a conflict with these rules and regulations, the most restrictive shall apply.

#### **Section 4. Unsafe Buildings.**

If the Building Commissioner determines the building to be unsafe, the Commissioner may act immediately in accordance with the Massachusetts State Building Code to protect public safety. Furthermore, nothing in this By-law shall abrogate the powers and/or duties of municipal officials to act pursuant to any general statutory authority including, without limitation, M.G. L. c. 139, § 1 et seq. and M.G.L. c. 143, § 6 et seq.

#### **Section 5. Violations and Penalties; Compliance.**

**A.** Violations of any portions of this By-law shall be punishable by a fine of \$100 per violation, with each day the violation continues constituting a separate violation. However, the designated Compliance Agent may waive the fine in total or in part upon the abatement of the violation(s).

**B.** The Compliance Agent or his/her designee shall enforce all provisions of this By-law and shall institute all necessary administrative or legal action to assure compliance. Any owner found to be in violation of this By-law shall receive written notice and a minimum of seven (7) days to remedy all violations prior to the institution of any Compliance action by the Compliance Agent. Said notice is to be served upon the owner(s) either in person, by registered mail, return receipt requested, or by posting said notice at the site of the violation. The Building Commissioner, acting on behalf of the Town of Maynard, may also bring a civil action in a court of competent jurisdiction seeking equitable relief to enforce this By-law. This By-law may also be enforced through non-criminal disposition pursuant to M.G.L. c. 40, § 21D and in accordance with Chapter 15 of the Town By-laws.

#### **Section 6. Compliance with Other Regulations.**

Nothing herein shall prevent the Town of Maynard from enforcing other applicable sections of the Massachusetts State Building Code or other applicable sections of Massachusetts General Laws, including but not limited to M.G.L. c. 111 (Public Health), and c. 139, § 3A (recovery of abatement costs).

#### **Section 7. Appeals.**

Any person aggrieved by a decision issued hereunder may appeal said decision to the Maynard Select Board within thirty-one (31) days of said decision.

**Section 8. Inspections.**

The Compliance Agents, or their designees, shall have the authority to periodically inspect the exterior of any building subject to this By-law for compliance. The Building Commissioner shall have the discretionary authority to seek immediate disconnection of utilities if a potential hazard that may be dangerous to life and limb is present, through authorities having jurisdiction.

**Section 9. Severability.**

If any provision of this By-law is held to be invalid by a court of competent jurisdiction, such provision shall be considered separate and apart from the remaining provisions, which shall remain in full force and effect.

# TOWN OF MAYNARD

## BY-LAW

### CHAPTER 42

#### MUNICIPAL CHARGES LIEN

##### **Section 1: Authority.**

This By-law is adopted pursuant to the authority of G. L. c. 40, § 21 and G. L. c. 40, § 58, and any other relevant statutes and regulations.

##### **Section 2: Purpose.**

The purpose of this section is to establish a municipal charges lien program to provide a cost effective method of collecting a charge, fine, penalty, and/or fee assessed against an owner of real property in the Town who fails and/or refuses to pay said charge or charges, fine or fines, penalty or penalties, and/or fee or fees when due, by placing a lien upon real estate owned by the property owner.

##### **Section 3: Applicability.**

The municipal charges lien shall apply to the following municipal charges and/or fees: Charges, fines, penalties, and/or fees including interest and all costs to record said lien(s) in the Middlesex South Registry of Deeds for violations of the Minimum Property Standards of Commercial/Industrial Properties By-law, Chapter 41.

##### **Section 4: Lien Takes Effect.**

The Municipal Charges Lien will take effect upon the recording of a statement of unpaid municipal charges, fines, penalties, and fees, setting forth the amount due, including recording costs, the address(es) of the land to which the lien is to apply and the name of the assessed owner.

##### **Section 5: Collection of the Lien.**

- A. The Tax Collector shall be in charge of collecting the lien.
- B. The Treasurer who is the person responsible for collecting the charge, fine, or penalty shall notify the Assessors of all unpaid tickets that have not been paid or appealed to the court at the end of each month.
- C. The Assessor shall prepare a statement of Municipal Charges Lien for each person from the list(s) received from the Town Clerk or person responsible for collecting the charge, fine, or penalty and shall forward said statement of lien to the Tax Collector who shall cause said statement(s) to be recorded in the Middlesex South Registry of Deeds.

##### **Section 6: Unpaid Municipal Charges Liens.**

- A. If a charge, fine, penalty, or fee secured by the lien is unpaid when the Assessors are preparing the real estate tax list and warrant, the Tax Collector shall certify the charge or penalty to the Assessors' Department and the Assessors shall add the charge or fee to the next real estate tax bill to which it relates, and commit it with the warrant to the collector as part of the tax.
- B. If the property to which the charge, fine, penalty, and/or fee relates is tax exempt, the charge or fee shall be committed as a tax on said property.

**Section 7: Release of the Lien.**

The Municipal Charges Lien may be discharged by filing a certificate from the Tax Collector that all municipal charges or fees constituting a lien, together with any interest and costs have been paid or legally abated. All costs of recording or discharging a lien under this section shall be borne by the owner of the property.

# TOWN OF MAYNARD

## BY-LAW

### CHAPTER 43

#### AMERICANS WITH DISABILITIES ACTS (ADA) COMMISSION

##### **Section 1. Membership:**

- a. There shall be an Americans with Disabilities Acts (ADA) Commission which shall consist of at least five (5) members which shall be appointed by the Select Board. The terms of the first members of said commission shall be for one, two or three years, and so arranged that the term of one-third of the members expires each year, and their successor shall be appointed for terms of three years each.
- b. A majority of said commission members shall consist of people with disabilities, one member shall be a member of the immediate family of a person with a disability and one member of said commission shall be either an elected or appointed official of that city or town.
- c. Any member of said commission may, after a public hearing, if so requested, be removed for cause by the appointing authority.
- d. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.
- e. The chairperson and other officers shall be chosen by a majority vote of said commission members.

##### **Section 2. Purpose and Authority:**

- a. It shall be the purpose of the Commission to cause the full integration and participation of people with disabilities in the town.
- b. The Commission shall (i) research local problems of people with disabilities; (ii) advise and assist municipal officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities; (iii) coordinate or carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability; (iv) review and make recommendations about policies, procedures, services, activities and facilities of departments, boards and agencies of said city or town as they affect people with disabilities; (v) provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability; (vi) coordinate activities of other local groups organized for similar purposes.

##### **Section 3. Operations:**

- a. The Commission shall keep records of its meetings and actions and shall file an annual report which shall be printed in the town annual report and shall have at least ten meetings annually.
- b. The Commission may receive gifts of property, both real and personal, in the name of the town, subject to the approval of the Select Board such gifts to be managed and controlled by said commission for the purposes of this section.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 44

#### ELIMINATION OF SINGLE-USE CHECKOUT BAGS

**Section 1: Purpose and Intent.** The purpose of this Bylaw is to eliminate the usage of thin-film single-use plastic checkout bags by all food establishments and retail and grocery stores in the Town of Maynard after adoption at Town Meeting.

#### **Section 2: Definitions**

- A. **FOOD ESTABLISHMENT:** Any operation that prepares, packages, serves, vends, or otherwise provides food for human consumption. This includes without limitation, restaurants and food trucks.
- B. **RETAIL ESTABLISHMENT:** Any commercial facility that sells goods directly to the consumer including, but not limited to, grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores, seasonal and temporary businesses.
- C. **REUSABLE CHECKOUT BAG:** A machine-washable bag with sewn handles that is specifically designed for multiple use and is made of cloth, fabric, or other durable material.
- D. **THIN-FILM SINGLE USE PLASTIC BAG:** A bag, typically with handles, with a thickness of 4 mils thick or less intended for single-use transport of purchased products.

#### **Section 3: Regulations**

- A. Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail or grocery store within the Town of Maynard.
- B. If a retail establishment provides bags to a customer at the point of sale, such bags shall be (1) 100% recyclable, including the handles, (2) contain at least 40% post-consumer recycled paper content, and (3) display this information about recyclability and content on the bag surface.

**Section 4: Exceptions.** Thin-film plastic bags typically without handles that are used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items, and other similar merchandise are not prohibited under this Bylaw.

**Section 5: Enforcement.** Enforcing this Bylaw shall be the responsibility of the Board of Health, who shall determine the inspection process to be followed, incorporating the process into other town duties as appropriate. Any retail establishment distributing single-use checkout bags in violation of this bylaw may be subject to a non-criminal disposition fine as specified in Appendix A of the Regulation for Enforcement of Town Bylaws under M.G.L Chapter 40, Section 21D and the Bylaw for Non-Criminal Disposition of Violations.

The following penalties shall apply:

First offense: Warning

Second offense: \$50

Third offense: \$100 and appearance in front of Board of Health

Fourth and subsequent offenses: \$200

**Section 6: Exemptions.** The Board of Health may exempt a retail establishment from the requirements of this Bylaw for a period of six months upon finding that the requirements of this section would cause undue hardship.

**Section 7: Severability.** Each section of this Bylaw shall be construed as separate to the end that if any section, sentence, clause, or phrase thereof shall be invalid for any reason, the remainder of this Bylaw shall continue in force.

**Section 8: Enactment.** This Bylaw shall go into effect six months after the date of approval by the Attorney General.

# TOWN OF MAYNARD

## BY-LAWS

### CHAPTER 45

#### PROHIBIT USE AND DISTRIBUTION OF POLYSTYRENE

**Section 1: Purpose and Intent.** The purpose of this Bylaw is to prohibit the use and distribution of expanded and clear or rigid polystyrene in food service ware and packaging material in the Town of Maynard.

#### **Section 2: Definitions**

- A. ASTM STANDARD:** materials meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for biodegradable and compostable plastics, as those standards may be amended. D6400 is the specification for plastics designed for compostability in municipal or industrial aerobic composting facilities. D6868 is the specification for aerobic compostability of plastics used as coatings on a compostable substrate.
- B. BIODEGRADABLE:** materials that will completely degrade and return to nature, ie., decompose into elements found in nature in three to six months after customary disposal.
- C. COMPOSTABLE:** materials that will completely degrade into, or otherwise become part of, usable compost (e.g. soil-conditioning material, mulch) in a safe and timely manner. Compostable disposable food service ware must meet ASTM-Standards for compostability and any bio-plastic or plastic-like product must be clearly labeled, preferably with a color symbol, such that any customer or processor can easily distinguish the ASTM Standard compostable plastic from non-ASTM Specification compostable plastic.
- D. DISPOSABLE FOOD SERVICE WARE:** all containers and utensils (such as bowls, plates, trays, cartons, cups, lids, forks, spoons, knives) and other items designed for one-time or non-durable uses on or in which any food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at food establishments.
- E. FOOD ESTABLISHMENT:** an operation that prepares, packages, serves, vends, or otherwise provides food for human consumption. This includes without limitation, restaurants, caterers, and food trucks.
- F. POLYSTYRENE:** a synthetic resin, which is a polymer of styrene, used chiefly as lightweight rigid foams and solid containers.
  - 1. **Clear or rigid polystyrene:** also known as “oriented,” which is produced by stretching extruded PS film, improving visibility through the material by reducing haziness and increasing stiffness. This is often used in packaging where the manufacturer would like the consumer to see the enclosed product. This is referenced in this Bylaw as “Rigid Polystyrene”. Rigid polystyrene is generally used to make clear clamshell containers, clear or colored lids, and utensils.
  - 2. **Expanded polystyrene:** includes both blown polystyrene and expanded and extruded foams (sometimes called “Styrofoam”, a Dow Chemical Co. trademarked form of EPS insulation) also referred to as *expanded polystyrene* (EPS), and in this section is

referenced as “Foam Polystyrene”. Foam polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons.

- G. PREPARED FOOD:** food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the food establishment’s premises within the Town of Maynard. Prepared food may be eaten either on or off the premises, also known as “takeout food”.
- H. RECYCLABLE:** materials that can be sorted, cleansed, and reconstituted using Maynard’s available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. “Recycling” does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.
- I. RETAIL ESTABLISHMENT:** any commercial facility that sells goods directly to the consumer including, but not limited to grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores, seasonal and temporary businesses.
- J. REUSABLE:** materials that will be used more than once in its same form by a food establishment. Reusable food service ware includes: tableware, flatware, food or beverage containers, packages, or trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor. Reusable also includes durable containers, packages, or trays used on-premises or returnable containers brought back to the food establishment.

### **Section 3: Regulations**

- A. Food and retail establishments are prohibited from serving prepared foods to customers in either rigid polystyrene or foam polystyrene food service ware.
- B. Food and retail establishments will use biodegradable, reusable, or recyclable food service wares and packaging. Reusable wares in place of disposable products are recommended for food served on the premises.
- C. No retail establishment in the Town of Maynard may sell, offer for sale, or otherwise distribute:
  - 1. Disposable food service ware made from foam polystyrene or rigid polystyrene
  - 2. Meat trays, fish trays, seafood trays, vegetable trays, or egg cartons packaged within the town made in whole or in any part with foam polystyrene or rigid polystyrene.
  - 3. Packing materials, including packing peanuts and shipping boxes made in whole or in any part with foam polystyrene that is not wholly encapsulated in a more durable material.

### **Section 4: Exceptions**

- A. Food or goods packaged or prepared outside the Town of Maynard is exempt from the provisions of this Bylaw, provided such food is not altered, packaged, or repackaged within town limits.
- B. Coolers and ice chests that are wholly encapsulated in a durable material and intended for reuse are exempt from the provisions of this Bylaw.

**Section 5: Enforcement.** Enforcing this bylaw shall be the responsibility of the Board of Health, who shall determine the inspection process to be followed, incorporating the process into other town duties as appropriate. Any establishment distributing polystyrene in any of its forms in violation of this bylaw may be subject to a non-criminal disposition fine as specified in

Appendix A of the Regulation for Enforcement of Town Bylaws under M.G.L Chapter 40, Section 21D and the Bylaw for Non-Criminal Disposition of Violations. The following penalties shall apply:

First offense: Warning

Second offense: \$50

Third offense: \$100 and appearance in front of Board of Health

Fourth and subsequent offenses: \$200

**Section 6: Exemptions.** The Board of Health may exempt any food and retail establishment from the requirements of this Bylaw for a period of six months upon finding that the requirements of this section would cause undue hardship.

**Section 7: Severability.** Each section of this bylaw shall be construed as separate to the end that if any section, sentence, clause, or phrase thereof shall be invalid for any reason, the remainder of this Bylaw shall continue in force.

**Section 8: Enactment.** This Bylaw shall go into effect six months after the date of approval by the Attorney General.