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# **DIVISION 1**

## **BYLAWS**

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# **PART I**

## **ADMINISTRATIVE LEGISLATION**

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# **Chapter 1**

## **GENERAL PROVISIONS**

### **ARTICLE I**

#### **Noncriminal Disposition**

**§ 1-1. Fine; enforcement.**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

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### **ARTICLE I**

#### **Noncriminal Disposition**

**[Adopted 4-24-2009 ATM, Art. 23]**

**§ 1-1. Fine; enforcement.**

- A. Any bylaw of the Town of Sunderland, or rule or regulation of its officers, boards or departments, the violation of which is subject to a specific penalty, may, in the discretion of the Town official who is the appropriate enforcing person, be enforced in the method provided in MGL c. 40, § 21D. The non-criminal fine for each such violation, if not otherwise specified, shall be \$300.00 per day.
- B. The term "enforcing person," as used in this bylaw, shall mean: any Town of Sunderland police officer with respect to any offense; as well as the Building Commissioner, the Board of Selectmen, the Conservation Commission, the Board of Health or its Health Agent, the Sealer of Weights and Measures, the Fire Chief, the Plumbing Inspector, the Wiring Inspector, the Animal Control Officer, and their designees, and such other officials as the Board of Selectmen may from time to time designate, all with regard to matters within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

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## Chapter 4

### AGING, COUNCIL ON

**§ 4-1. Establishment.**

**§ 4-2. Annual report.**

**§ 4-3. Number of members.**

**§ 4-4. Designation of Chairman.**

**§ 4-5. Appointees.**

**[HISTORY: Adopted 6-27-1978 STM, Art. 4. Amendments noted where applicable.]**

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**§ 4-1. Establishment.**

There is hereby established a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in coordination with programs of the Department of Elder Affairs, all in accord with MGL c. 40, § 8B.

**§ 4-2. Annual report.**

It is further provided that the Council shall submit an annual report to the town and shall send a copy thereof to the Department of Elder Affairs of the commonwealth.

**§ 4-3. Number of members.**

Said Council shall consist of not less than five (5) nor more than fifteen (15) members, appointed by the Board of Selectmen from the residents of the town.

**§ 4-4. Designation of Chairman.**

The Chairman of the Council shall be designated from time to time by the Board of Selectmen.

**§ 4-5. Appointees.**

Appointees shall hold office until successors are designated.

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## Chapter 14

### COMMITTEES AND COMMISSIONS

#### ARTICLE I Permanent Building Committee

§ 14-1. Establishment; membership.

#### ARTICLE II Finance Committee

§ 14-2. Establishment; members.

§ 14-3. Appointment; terms.

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residency required.

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§ 14-33. Requirement for quorum and  
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§ 14-35. Severability.

§ 14-36. When effective.

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

## GENERAL REFERENCES

Personnel — See Ch. 31.  
Recycling — See Ch. 95.  
Wetlands — See Ch. 122.  
Zoning — See Ch. 125.

Building standards — See Ch. 152.  
Landfill — See Ch. 164.  
Subdivision of land — See Ch. 194.

## ARTICLE I

**Permanent Building Committee**  
[Adopted 2-25-1967 ATM, Art. 18]

**§ 14-1. Establishment; membership.** [Amended 4-25-2003 ATM, Art. 11]

There is established a Permanent Building Committee to make recommendations to the Board of Selectmen or building related issues. The Permanent Building Committee shall consist of one member of the Board of Selectmen designated by that Board, a member of the School Committee designated by that Committee, a member of the Planning Board designated by that Board, a member of the finance Committee designated by that Committee, a member of the Board of Assessors designated by that Board, and a minimum of two (2) and a maximum of four (4) citizens not serving on any of the Boards or Committees mentioned above, who shall be appointed by the Moderator. If any member of the Permanent Building Committee is absent from three consecutive meetings, the Chairman shall inform the appointing Board, Committee or Moderator so that the appointing authority may consider another appointment. The Permanent Building Committee shall review and make a recommendation to Town Meeting on all articles that pertain to building construction, repair, maintenance and the disposition of building and building-related assets.

## ARTICLE II

**Finance Committee**

[Adopted 2-27-1971 ATM, Art. 20; amended 6-6-1972 STM, Art. 8; 2-24-1973 ATM, Art. 25]

**§ 14-2. Establishment; members.** [Amended 4-29-2005 ATM, Art. 25]

There shall be a Finance Committee, hereinafter called the "Committee," consisting of up to nine (9) residents of the Town, other than Town officers, appointed by the Moderator. A quorum of the Committee shall constitute a majority of the then-appointed members of the Committee.

**§ 14-3. Appointment; terms.** [Amended 4-27-2001 ATM, Art. 25; 4-29-2005 ATM, Art. 25]

The Moderator shall appoint members of the Committee for alternating three-year terms, the expiration date being August 15 after the Annual Town Meeting.

**§ 14-4. Limitation on number of terms; residency required. [Amended 4-29-2005 ATM, Art. 26]**

Any member who shall move from the Town shall cease to be a member of the Committee.

**§ 14-5. Termination of membership upon other appointment or election.**

Any member of the Committee who shall be appointed or elected to Town office or a committee or board other than the Personnel Board, Capital Budget Committee or Town

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Building Committee shall forthwith, upon his qualification in such office, cease to be a member of the Committee, unless continuance in membership is unanimously voted by the Committee.

**§ 14-6. Election of officers.**

The Committee shall elect its own officers, said officers to consist of a Chairman, Vice Chairman and Clerk. The Clerk shall keep written minutes of all regular and special meetings of the Committee.

**§ 14-7. Removal.**

Members absent from more than one-third (1/3) of the meetings in any calendar year, failing to actively participate in subcommittee duties or failing to complete designated responsibilities may be removed by a two-thirds vote of the other members.

**§ 14-8. Compensation.**

Members of the Committee shall serve without salary.

**§ 14-9. Vacancy.**

In the event of any vacancy in its membership, the Committee shall notify the Moderator, in writing, who shall, within twenty (20) days, make an interim appointment to fill the vacancy.

**§ 14-10. Matters to be considered.**

The Committee shall consider any and all matters of Town business included within the articles of any warrant for a Town Meeting and shall, after due consideration, report to the Town Meeting its recommendation as to each article of such Town Meeting warrant.

**§ 14-11. Recommendations.**

All recommendations shall be those of a majority of the Committee but shall not exclude or prevent a minority report. The recommendations shall state the total amount of the appropriations recommended by the Committee on the entire warrant and the approximate tax rate or effect, if applicable, based on such recommendations.

**§ 14-12. Committee report.**

The Committee report for the Annual Town Meeting shall contain a statement of the actions of the Committee during the year, with such recommendations and suggestions as the Committee may deem advisable. The Committee may issue recommendations on referenda and other matters on any ballot, other than the choice of individuals for offices.

**§ 14-13. Copy of article for Chairman.**

The Chairman of the Committee shall be furnished a copy of each Town Meeting article, the wording being exactly as appearing on the warrant, no later than forty-eight (48) hours before posting of said warrant, and it shall be dated by the Chairman upon receipt of the copy.

**§ 14-14. Administration of reserve fund.**

The Committee shall administer the reserve fund, an amount to be established at each Annual Town Meeting, making transfers from said fund to meet unforeseen or extraordinary expenses which may be incurred by the various Town boards, officers, departments or committees. Requests for transfers from the reserve fund shall be made to the Committee on forms provided by the Committee.

**§ 14-15. Authority to examine records.**

The Committee shall have authority at any time to examine the books, accounts and fiscal management of any department of the Town and to employ such expert or other assistance as it may deem advisable for that purpose.

**§ 14-16. Records open to inspection by Committee.**

The books and accounts of all departments and officers of the Town shall be open to the inspection of the Committee and any person employed by it for that purpose.

**§ 14-17. Appointment of subcommittees.**

The Committee may appoint subcommittees from within its membership and delegate to them such of its powers as it deems expedient.

**§ 14-18. Consideration of estimates and statements.**

The Committee shall consider the estimates and statements filed by the Town boards, officers and committees and may confer with said boards, officers and committees and hold hearings if the Committee deems necessary.

**§ 14-19. Preparation of estimates. [Amended 11-21-1974 STM, Art. 1]**

The various Town boards, officers and committees charged with the expenditure of Town moneys shall, not later than ninety (90) days prior to the Annual Town Meeting, prepare detailed estimates, in writing, of the amounts deemed by them to be necessary for the administration of their respective offices and departments for the coming fiscal year. Explanatory statements of the reasons for any changes from the total of amounts provided for the same purpose in the current year shall be included.

**§ 14-20. Filing of estimates.**

Estimates of all items of income which may be received during the ensuing year in connection with the operation of the various departments or offices shall be filed with the Committee. The Committee shall thereupon recommend to the Town such sums and such division of items as it considers necessary and desirable.

**§ 14-21. Monthly accounting to be furnished.**

The Committee shall be furnished a copy of the monthly accounting of disbursements, said copy to show the amount, department, budget item number and items of expenditure.

**§ 14-22. Amendments.**

These bylaws may be amended by a majority vote at any Town Meeting.

**ARTICLE III****Regional Refuse Disposal Planning Committee**  
[Adopted 11-16-1987 STM, Art. 7]**§ 14-23. Creation.**

The Town has voted to create a special unpaid Committee, to be known as the "Regional Refuse Disposal Planning Committee," consisting of three persons appointed by the Moderator in accordance with MGL c. 40, § 44A, as amended.

**ARTICLE IV****Agricultural Commission<sup>1</sup>**  
[Adopted 4-29-2005 ATM, Art. 27]**§ 14-24. Establishment; purpose.**

There shall be an Agricultural Commission to address agricultural issues and represent agricultural interest in the Town of Sunderland.

**§ 14-25. Duties and responsibilities.**

The duties and responsibilities of the commission shall include, but not be limited to:

- A. Advising the Board of Selectmen, Planning Board, Conservation Commission, Board of Health, and Historical Commission on projects and activities involving agricultural lands in Town;

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1. Editor's Note: Former Art. IV, Agricultural Land Preservation Committee, adopted 10-30-1985 STM, Art. 3, which consisted of § 14-24, was repealed 4-29-2002 ATM, Art. 26.

- B. Engaging in projects and activities to promote the business of farming, farming activities and tradition, and farmland protection in Town including educational programs and community events; and,
- C. Reporting to Town Meeting on its projects and activities on annual basis.

#### **§ 14-26. Members; appointment.**

The Commission shall be composed of five members, appointed by the Board of Selectmen, to include one concurrent member of the Conservation Commission and four at-large Town resident representatives. At least three of the members of the Commission shall be engaged in the business of farming or related agricultural industries. The Board of Selectmen shall fill a vacancy based on the unexpired term of the vacancy and in such manner so as to maintain the aforesaid composition of the Commission.

#### **§ 14-27. Terms.**

Two members shall be appointed for three year terms; one member for a two year term and three years thereafter; one member for a one year term and three years thereafter and the Conservation Commission member shall be appointed annually.

### **ARTICLE V**

#### **Community Preservation Committee [Adopted 4-29-2011 ATM, Art. 5]**

#### **§ 14-28. Membership of Committee.**

- A. There is hereby established a Community Preservation Committee, consisting of seven (7) voting members pursuant to the provisions of MGL c. 44B, § 5. The composition of the Committee, the appointing authority and the term of office for the Committee members shall be as follows:
  - (1) One member of the Conservation Commission as designated by said Commission;
  - (2) One member of the Historical Commission as designated by said Commission;
  - (3) One member of the Planning Board as designated by said Board;
  - (4) One member of the Recreation Committee as designated by the Committee;
  - (5) One member of the Housing Committee as designated by the Committee;
  - (6) Two residents to be appointed by the Board of Selectmen.
- B. The initial term for the first appointed and designated Community Preservation Committee members by the Conservation Commission, the Historical Commission and the Planning Board shall be for a period of one year and for three-year terms thereafter. The term for the first appointed and designated members by the Recreation Committee and Housing Committee shall be for an initial term of two years and for three years

thereafter. The initial term of members first appointed and designated by the Board of Selectmen shall be for a period of three years and for three-year terms thereafter.

- C. Should any of the officers and commissions, boards, or committees who have appointing authority under this bylaw be no longer in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve in their place.

#### **§ 14-29. Duties.**

The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Board of Park Commissioners and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city or town.

#### **§ 14-30. Recommendations to Town.**

The Community Preservation Committee shall make recommendations to the Annual or Special Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

#### **§ 14-31. Set-aside recommendations.**

The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

#### **§ 14-32. Annual revenues; open space, historic resources and community housing.**

In every fiscal year, the Community Preservation Committee must recommend either that the Town Meeting spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use), not less than 10% of the annual revenues in the Community Preservation Fund for historic

resources; and not less than 10% of the annual revenues in the Community Preservation Fund for community housing.

**§ 14-33. Requirement for quorum and cost estimates.**

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

**§ 14-34. Amendments.**

- A. The Community Preservation Committee shall, from time to time, review the administration of this bylaw, making recommendations, as needed, for changes in the bylaw and in administrative practice to improve the operations of the Community Preservation Committee. The first review shall be completed no later than January 1, 2012, and subsequent reviews shall be completed in no more than five-year intervals.
- B. This bylaw may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of MGL c. 44B.

**§ 14-35. Severability.**

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

**§ 14-36. When effective.**

This bylaw shall take effect upon approval by the Attorney General of the commonwealth and after all requirements of MGL c. 40, § 32 have been met. Each appointing authority shall have thirty (30) days after the effective date to make its appointments.

## **Chapter 19**

### **FEES, ACCEPTANCE OF**

#### **ARTICLE I** **Fees Collected by Town Clerk**

##### **§ 19-1. Acceptance.**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

#### **ARTICLE II** **Fees Collected by Tax Collector**

##### **§ 19-2. Acceptance.**

#### **GENERAL REFERENCES**

Fees — See Chs. 60, 133 and 156.

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#### **ARTICLE I** **Fees Collected by Town Clerk** **[Adopted 4-29-1988 ATM, Art. 22]**

##### **§ 19-1. Acceptance.**

The town voted to accept the fees collected by the Town Clerk as agent for the state (MGL c. 131, § 17, fish and wildlife) and Uniform Commercial Code fees, subject to the appropriation of salaries as of fiscal 1989.<sup>1</sup>

#### **ARTICLE II** **Fees Collected by Tax Collector** **[Adopted 4-29-1988 ATM, Art. 32]**

##### **§ 19-2. Acceptance.**

The town voted to accept the fees collected by the Tax Collector as agent for the town (MGL c. 60, § 23), subject to the appropriation of salaries as of fiscal 1989.

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1. Editor's Note: Provisions related to collection of fees for the county were removed at the direction of the Town in 2006.





## Chapter 31

### PERSONNEL

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| § 31-1. Title; statutory authority.                                   | § 31-14. Personal telephone calls.                    |
| § 31-2. Disclaimers.  | § 31-15. Vacations.                                   |
| § 31-3. Nonharassment policy.   | § 31-16. Sick leave.                                  |
| § 31-4. Applicability; equal opportunity policy; Personnel Committee. | § 31-17. Leaves of absence.                           |
| § 31-5. Definitions.  | § 31-18. Federal Family and Medical Leave Act (FMLA). |
| § 31-6. Workweek.   | § 31-19. Holidays.                                    |
| § 31-7. Overtime.   | § 31-20. Other leave.                                 |
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| § 31-9. Solicitation and distribution.                                | § 31-22. COBRA rights.                                |
| § 31-10. Changes in personal data.                                    | § 31-23. New employees.                               |
| § 31-11. Protecting Town information.                                 | § 31-24. Grievance procedure.                         |
| § 31-12. Town property.   | § 31-25. Standards of conduct.                        |
| § 31-13. Town vehicles.   |   |

[HISTORY: Adopted 4-30-1982 ATM, Art. 9; amended in its entirety 4-30-1999 ATM, Art. 17. Amendments noted where applicable.]

#### GENERAL REFERENCES

Committees and Commissions — See Ch. 14.

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#### § 31-1. Title; statutory authority.

This chapter shall be known and cited as the "Personnel Bylaws" and is hereby adopted pursuant to the provisions of MGL c. 41, § 108A.

#### § 31-2. Disclaimers.

- A. All individuals employed by the Town are employed "at will," and the employment relationship may be terminated by either party at any time with or without cause and with or without notice.
- B. Only the Board of Selectmen is authorized to create an employment contract, and that a signed and written agreement is required to do so. The final interpretation of the provisions of the Personnel Bylaws is the exclusive responsibility of the Board of Selectmen.

- C. The provisions of the Personnel Bylaws, developed or disseminated by the Town, are designed and intended to provide guidance and information and do not create an employment contract or other employment obligation for the Town.
- D. The Personnel Bylaws of the Town of Sunderland summarize the current benefits plans maintained by the Town. If any questions arise regarding the interpretation of these plans, the answers will be determined by reference to the actual plan documents, policies or governing statutes rather than the summaries contained in these Bylaws.

**§ 31-3. Nonharassment policy.**

- A. It is the policy of the Town of Sunderland to prohibit harassment of one (1) employee by another employee or supervisor on any basis, including, but not limited to, race, color, religious creed, national origin, gender, sexual orientation, ancestry, mental or physical disability.
- B. The purpose of this policy is not to regulate the Town's employees' personal morality. Rather, it is to assure that, in the workplace, no employee harasses another on any of these bases.
- C. While it is not easy to define precisely what any of these bases are, they certainly include slurs, epithets, threats, derogatory comments or visual depiction, unwelcome jokes, teasing, sexual advances, requests for sexual favors and other similar verbal or physical contact.
- D. Any employee who feels that he/she is a victim of harassment should immediately follow the procedures set forth in the Town of Sunderland Anti-Harassment Policy and Complaint Procedures. Violations of the Anti-Harassment policy will not be permitted and may result in disciplinary action, up to and including termination. [Amended 4-29-2002 ATM, Art. 22; 4-29-2005 ATM, Art. 24]

**§ 31-4. Applicability; equal opportunity policy; Personnel Committee.**

- A. This chapter shall be applicable to all persons in the service of the Town, except officials elected by popular vote and persons under direction and control of the School Committee, the Town Moderator or the Board of Library Trustees. All persons covered hereby shall be subject to the provisions set forth in this chapter, as determined to be applicable to them by the Personnel Committee hereinafter established. Nothing in this chapter shall be construed to be in conflict with MGL c. 150E, relating to public employee collective bargaining, which shall prevail if there is any conflict.
- B. It shall be the policy of the Town of Sunderland to guarantee equal opportunity to all qualified applicants and to all employees with respect to initial hiring, advancement, compensation and general working conditions, without regard to race, color, religious creed, national origin, gender, sexual orientation, ancestry, mental or physical condition.
- C. The Board of Selectmen shall appoint a Personnel Committee to assist in administering the Town's personnel policies and procedures.

- (1) The Committee shall consist of the following six (6) members:
  - (a) Two (2) Sunderland residents not in the employ of the Town (voting).
  - (b) One (1) active, classified, permanent Town employee (voting).
  - (c) One (1) representative from the Finance Committee (voting).
  - (d) One (1) member Board of Selectmen (voting).
  - (e) One (1) Town Administrator (nonvoting). **[Amended 4-29-2002 ATM, Art. 22]**
- (2) The Personnel Committee will meet monthly on a regular basis or as required.
- (3) Each voting member will serve a two-year term and may be appointed to another two-year term.
- (4) The duties of the Personnel Committee are to:
  - (a) Assist in administering the Town Personnel Bylaws and submit recommendations to the Board of Selectmen for approval.
  - (b) Review various personnel requests from Town departments, including but not limited to new or revised position descriptions and classifications, promotional and special salary increases, leaves of absence, interpretations of the Town's Personnel Code, policy revisions, salary and benefit surveys and improvements and other personnel matters.
  - (c) Hear employees' complaints and submit recommended resolutions to the Board of Selectmen.
  - (d) Participate in all screening committees for new applicants; member(s) to be designated by the Committee.

**§ 31-5. Definitions. [Amended 4-27-2007 ATM, Art. 22]**

- A. The following words and phrases, whenever used in this chapter, shall be defined as indicated below, unless the context clearly requires otherwise:

**APPOINTING AUTHORITY** — The appointing authorities for Town, fire, school and library personnel, as defined in MGL c. 41, c. 48, § 42, c.71 and c.78.

**BOARD** — The Board of Selectmen.

**DEPARTMENT** — An operating unit of Town government funded through one (1) or more budget categories and under the supervision of a Town Board.

**DEPARTMENT HEAD** — The employee responsible for the administration and operation of a Town department, who reports directly to the Board of Selectmen, or appointing authority.

**HIRING** — The appointment of a person into a position in the service of the Town. Hiring shall be of the following types: regular full-time, regular part-time; temporary and non-benefited.

**IMMEDIATE FAMILY** — Included are the employee's spouse, children, parents, stepchildren, stepparents, brothers, sisters, mother-in-law, father-in-law, grandparents, brother-in-law or sister-in-law.

**LAYOFF** — The removal of an employee because of lack of work, insufficient funding, or other causes which do not negatively reflect on an employee's work performance. Layoff shall not be considered as disciplinary in nature. Any laid-off employee returning to work needs to be reappointed by the Selectmen, or appointing authority.

**PERSONAL LEAVE** — An authorized period of absence from work, without pay if longer than three days, for regular employees, and approved by the Board of Selectmen, to take care of personal business. The department head may approve the leave if not more than three days are required.

**TOWN** — The Town of Sunderland.

**TRANSFER** — The movement of an employee from one (1) position to another equal or similar position in the Town organization.

**B. Position type:**

**ESTABLISHED POSITION** — A position for which there is a corresponding position description approved by the Board of Selectmen or appointing authority.

**REGULAR POSITION** — An established benefited position in the service of the Town for which there is an expectation of need for an uninterrupted indefinite period, and for which an employee shall receive holiday pay, vacation, sick and other leave, based on workweek schedule and be eligible to participate in the fringe benefits programs offered by the Town.

**TEMPORARY POSITION** — An established position in the service of the Town which requires the service of an individual for a period less than one thousand forty (1,040) hours in a single fiscal year. The term "temporary position," whenever used in this chapter, shall mean "temporary or seasonal position."

**C. Employee type:**

**EMPLOYEE, NON-BENEFITED** — An employee who has been hired into a temporary position or who has been hired into an established position that normally requires less than one thousand forty (1,040) hours in a single fiscal year.

**EMPLOYEE, REGULAR** — An employee who has been hired into an established benefited position that normally requires a minimum of twenty (20) scheduled hours per week unless otherwise determined by the Board of Selectmen or appointing authority.

**EMPLOYEE, TEMPORARY** — An employee who has been hired into a temporary or seasonal position in the service of the Town as defined, or an employee who has been hired into an established position for a period less than one thousand forty (1,040) hours

in a single fiscal year. The term "temporary employee," whenever used in this chapter, shall mean temporary or seasonal employee.

**§ 31-6. Workweek.**

- A. Because of the varied nature of the Town's business, employee work schedules may vary depending on the job. The normal business hours are described in each employee's Terms of Employment. Employees should check with the department head if they have any questions on hours of work.
- B. For regular full-time employees, the normal workweek shall be 40 hours unless otherwise determined by the Board of Selectmen or appointing authority. The normal workweek for regular part-time and non-benefited employees and public safety personnel (fire and police) shall be arranged by the Board of Selectmen or appointing authority. The workweek ends on Friday. [Amended 4-27-2007 ATM, Art. 23]

**§ 31-7. Overtime.**

- A. There may be times when an employee will need to work overtime so that the Town may successfully meet the needs of the citizens of Sunderland. All overtime for employees must be approved in advance by the department head. All overtime for department heads must be approved by the Town Administrator. [Amended 4-29-2002 ATM, Art. 22]
- B. Hourly employees will be paid an overtime rate for hours worked over forty (40) in a week, consistent with the Federal Fair Labor Standards Act and state statutes.
- C. Only actual hours worked, legal holidays, earned vacation hours and earned personal hours count towards computing weekly overtime. [Amended 4-27-2001 ATM, Art. 27; 4-28-2006 ATM, Art. 22]

**§ 31-8. Attendance and punctuality.**

- A. Attendance and punctuality are important factors for an employee's success within the Town. All employees work as a team, and this requires that each person be in the right place at the right time.
- B. If an employee is going to be late for work or absent, the employee must notify the department head or Town Administrator as soon as possible but before the start of the workday. [Amended 4-29-2002 ATM, Art. 22]
- C. If an employee is absent for five work days without notifying the Town, it is assumed that the employee has voluntarily abandoned his/her position with the Town, and the employee may be discharged.

**§ 31-9. Solicitation and distribution.**

- A. Employee distribution of literature, handbills or other printed materials in work areas is prohibited at all times.

- B. Trespassing, soliciting or distribution of literature by nonemployees in work areas is prohibited at all times.

**§ 31-10. Changes in personal data.**

- A. The Town needs to maintain up-to-date information about its employees so that it will be possible to aid you and/or your family in matters of personal emergency.
- B. Changes in name, address, telephone number, marital status, number of dependents or changes in next of kin and/or beneficiaries should be given to the Town Treasurer.

**§ 31-11. Protecting Town information. [Amended 4-29-2002 ATM, Art. 22; 4-27-2007 ATM, Art. 23]**

Protecting the Town's information and the privacy rights of its citizens is the responsibility of every employee, and all employees share a common interest in making sure information is not improperly or accidentally disclosed. Pursuant to MGL c. 268A, § 23, no employee shall improperly disclose confidential information acquired by him/her in the course of his/her official duties, nor use such information to further his/her personal interest. Any question as to whether Town information is subject to disclosure should be discussed with the Town Administrator. Violations of this section may result in disciplinary action up to and including termination.

**§ 31-12. Town property. [Amended 4-29-2002 ATM, Art. 22; 4-27-2007 ATM, Art. 23; 4-29-2011 ATM, Art. 8]**

Employees shall use proper care and discretion when using the Town's buildings, property and equipment. Town property issued to employees shall be used in accordance with employees job-related service to the Town, and shall be returned to the issuing authority upon ceasing use, or upon separation from service to the Town, in accordance with state and local regulations and policies. If Town property is lost, broken or damaged, it must be reported to the department head and the Town Administrator at once. No property may be removed from the Town without the proper authorization of the department head or Town Administrator.

**§ 31-13. Town vehicles.**

- A. Operators of Town vehicles are responsible for maintaining a current Massachusetts drivers license with the appropriate endorsements and for the safe operation and cleanliness of the vehicle.
- B. Accidents and moving violations involving a Town vehicle must be reported to the department head and Town Administrator immediately. [Amended 4-29-2002 ATM, Art. 22]
- C. Employees are responsible for any moving violation and fines which may result when operating a Town vehicle.

- D. Town vehicles may only be used for job-related travel, and shall transport only authorized Town employees and passengers. Any operation of a Town vehicle outside of the geographical boundaries of the Town requires approval of the department head or Town Administrator. [Amended 4-29-2002 ATM, Art. 22; 4-29-2011 ATM, Art. 8]
- E. The use of seat belts is mandatory for operators and passengers of Town vehicles.

**§ 31-14. Personal telephone calls.**

It is important for employees to keep the Town's telephone lines free for citizens' calls. Although the occasional use of the Town's telephones for personal emergency may be necessary, routine personal calls are not permitted.

**§ 31-15. Vacations.** [Amended 4-29-2002 ATM, Art. 21; 4-29-2002 ATM, Art. 22; 4-27-2012 ATM, Art. 7]

- A. A regular, full-time employee with one (1) year or more of service will receive two (2) weeks of paid vacation. Regular, full-time employees with five (5) years or more of service will receive three (3) weeks of paid vacation. Regular, full-time employees with ten (10) years or more of service will receive four (4) weeks of paid vacation. Regular, full-time employees with twenty (20) years or more of service will receive five (5) weeks of paid vacation. All vacation leave must be approved and scheduled in advance with the department head and/or the Town Administrator.
- B. Regular part-time employees who work twenty (20) or more hours per week for the Town shall receive vacation based upon the number of hours regularly worked per week.
- C. Vacation pay is to be computed retroactively for the time worked during the year if an employee terminates employment for any reason other than a discharge for wrongdoing during any given year after completing one (1) year of service to the Town. Employees terminated for wrongdoing shall not receive any payment for unused vacation.
- D. Vacation accrual will be computed upon an employee's completion of one (1) year of service to the Town according to the date of hire. At the completion of the employee's first year of service, vacation leave shall further accrue on a pro-rated basis for the remaining weeks in that fiscal year. Thereafter, vacation leave shall be accrued and taken on a fiscal year basis. Vacation leave may be taken in the year earned or carried over to the next year, except that no more than two weeks of earned vacation may be carried over at any time. Vacation leave shall not be granted in advance of being earned.

**§ 31-16. Sick leave.**

- A. Regular full-time employees will have up to twelve (12) days of paid sick leave per year, which shall be accrued at the rate of one (1) day per month. Sick leave shall be calculated on a fiscal year basis. Sick leave may be accumulated up to a limit of seventy-five (75) workdays. If an employee is going to be late for work, absent or leave work early due to illness, the employee must notify the department head or Town Administrator as soon as possible on or before that workday. If an employee is out sick

more than three (3) consecutive days or the department head believes the employee is abusing sick leave, a doctor's letter which includes a specific diagnosis and prognosis may be required to be furnished to the Board of Selectmen in order for the employee to be eligible for sick leave pay under this program. [Amended 4-28-2008 ATM, Art. 27]

- B. Regular part-time employees who work at least twenty (20) hours in a given week shall be eligible for prorated paid sick leave based upon the above section. [Amended 4-28-2008 ATM, Art. 27]
- C. Additional sick leave above the specified limits may be requested in writing through the Personnel Committee to the Board of Selectmen for its approval, in accordance with the Town's Sick Leave Bank policy. [Amended 4-29-2011 ATM, Art. 8]

**§ 31-17. Leaves of absence.**

- A. Under special circumstances, an employee with one (1) year of employment may request, in writing, an authorized leave of absence without pay from the Board of Selectmen. While on an authorized leave of absence, the employee will not be eligible for any employment related benefits. The Town will make reasonable efforts to return the employee to the same or similar job as held prior to the leave, subject to staffing and business requirements. Leaves will not exceed one (1) year.
- B. An employee who is absent from work without permission for a period of more than one (1) week shall be considered to be on an unauthorized leave of absence and subject to immediate termination.

**§ 31-18. Federal Family and Medical Leave Act (FMLA). [Amended 4-29-2002 ATM, Art. 22; 4-29-2011 ATM, Art. 8]**

- A. The FMLA allows eligible employees to take up to twelve (12) workweeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons, or for any qualifying military family leave entitlements as defined in the FMLA. To be eligible for leave under the Act, the employee must have worked for the Town for at least twelve (12) months and for at least one thousand two hundred fifty (1,250) hours in the past twelve (12) months.
- B. Eligible employees may take leave under the Act for any of the following reasons:
  - (1) The birth of your child and to care for such child;
  - (2) The placement of a child with you for adoption or foster care, and to care for the newly placed son or daughter;
  - (3) To care for a spouse, child, or parent (covered relations) with a serious health condition;
  - (4) Your own serious health condition that renders you unable to perform an essential function of your position;



- (5) For qualifying exigencies defined in the FMLA arising from your spouse, child or parent being on active duty or being called to active duty status as a member of the National Guard or Reserves in support of a contingency operation;
  - (6) To care for your spouse, child, parent or next of kin who is a covered service member with a serious injury or illness, as defined in the FMLA.
- C. If you request leave under the Act because of a birth, adoption or foster care placement of a child or to care for a covered relation with a serious health condition, any accrued paid vacation, or personal days must be used first as part of your leave.
  - D. If you request leave under the Act because of your own serious health condition, any accrued paid vacation, personal days or sick leave must be used first as part of your leave.
  - E. If you request leave under the Act to care for a covered service member with a serious injury or illness as defined in the FMLA, you may be allowed to take up to twenty-six (26) workweeks of job-protected leave in a single 12-month period.
  - F. The substitution of paid leave time for unpaid leave time does not extend the twelve-week leave period. During leave approved under the Act, the Town will maintain your health benefits under the same terms and conditions applicable to employees not on leave. If paid leave is substituted for unpaid leave, the Town will deduct your portion of the health plan premium as a regular payroll deduction. If your leave is unpaid; you must pay your portion of the premium by making arrangements with the Town Treasurer.
  - G. If you elect not to return to work at the end of the leave for at least thirty (30) calendar days, you will be required to reimburse the Town for the cost of the premiums paid by the Town for maintaining coverage during your unpaid leave, unless you cannot return to work because of a serious health condition or because of other circumstances beyond your control.
  - H. The taking of another job while on family or medical leave or any other authorized leave may lead to disciplinary action, up to and including termination.
  - I. An employee seeking FMLA leave is required to provide 30-day advance notice to his/her department head when the need is foreseeable and such notice is practicable. The Town Administrator must be notified of all leave authorized under the Act.

**§ 31-19. Holidays.** [Amended 4-28-2006 ATM, Art. 23; 4-29-2011 ATM, Art. 8; 4-27-2012 ATM, Art. 7]

- A. The following days shall be recognized as legal holidays within the meaning of this chapter, and regular employees will receive these days off with pay:

New Year's Day

Martin Luther King Day

President's Day

Patriots Day  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veteran's Day  
Thanksgiving Day  
Christmas Day

- B. Holidays which fall on a Saturday will be observed on the preceding Friday. Holidays which fall on Sunday will be observed on the following Monday.
- C. If a holiday falls on any weekday a regular employee is not normally scheduled to work, the holiday will be observed on the employee's preceding workday.
- D. A regular full-time employee or regular part-time employee required to work a holiday will be compensated at the overtime rate of time and one-half for actual hours worked on that holiday in addition to regular holiday pay.

**§ 31-20. Other leave.**

- A. Bereavement leave. In the event of a death of a regular employee's spouse, child, mother, father, mother-in-law, father-in-law, grandparent, brother, sister, brother-in-law, sister-in-law, the employee will be paid up to a maximum of three (3) consecutive working days, one of which shall be the day of the funeral, at his or her regular rate of pay.
- B. Military leave. A regular full-time employee required to perform military duty in the Armed Forces of the United States, under the provisions of MGL c. 33, § 54, or required to serve an annual tour of duty as a member of a reserve component of the Armed Forces of the United States, shall be granted a military leave of absence and shall be entitled to the difference between the military pay and his regular base weekly wage, for not more than fourteen (14) working days. An employee, upon request, may combine his military leave with his regular vacation leave. An employee must present a copy of his/her military orders to his/her department head.
- C. Personal leave. Regular full-time employees are eligible for a maximum of three (3) paid personal days during the fiscal year. Regular part-time employees shall receive personal leave based upon the number of hours regularly worked per week. A regular full-time or regular part-time employee wishing to take personal leave shall make a request, in writing, to his/her department head at least forty-eight (48) hours in advance, except in emergencies. Personal leave shall not be granted in advance of being earned, is noncumulative and must be used in the fiscal year earned. **[Amended 4-29-2002 ATM, Art. 20; 4-27-2007 ATM, Art. 23]**
- D. Jury duty leave. An employee of the Town who serves as a grand or traverse juror in Federal Court or in the courts of the commonwealth shall receive from the Town as

salary, the difference between his/her regular rate of pay and the compensation paid to the employee for such jury service, exclusive of any travel or other allowance(s), as outlined in MGL c. 234A, § 48.

**§ 31-21. Benefits. [Amended 4-29-2011 ATM, Art. 8]**

Regular benefited employees are eligible to participate in the following fringe benefits programs offered by the Town unless otherwise indicated:

- A. Retirement/pension plan, as provided for under MGL c. 32. Eligibility: Regular employees and qualifying elected Town officials are eligible to participate in the retirement program in accordance with MGL c. 32 and Franklin Regional Retirement System regulations.
- B. Health insurance plan, as provided for under MGL c. 32.
  - (1) Eligibility.
    - (a) Regular full-time and regular part-time employees who are regularly scheduled to work twenty (20) hours or more per week.

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**§ 31-21. Benefits. [Amended 4-29-2011 ATM, Art. 8]**

Regular benefited employees are eligible to participate in the following fringe benefits programs offered by the Town unless otherwise indicated:

- A. Retirement/pension plan, as provided for under MGL c. 32. Eligibility: Regular employees and qualifying elected Town officials are eligible to participate in the retirement program in accordance with MGL c. 32 and Franklin Regional Retirement System regulations.
- B. Health insurance plan, as provided for under MGL c. 32.
  - (1) Eligibility.
    - (a) Regular full-time and regular part-time employees who are regularly scheduled to work twenty (20) hours or more per week.

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- (b) Elected Town officials who regularly work at least twenty (20) hours or more per week.
- (2) Cost. The Town offers two (2) basic types of group health insurance plans:
  - (a) Indemnified plan. If the employee selects the indemnified plan, he/she must pay fifty percent (50%) of the monthly premium cost and the Town will contribute a like amount.
  - (b) HMO. If the employee selects HMO coverage, the Board of Selectmen will determine the contribution rate such that not less than twenty-five percent (25%) of the monthly premium is payable by the employee and not less than fifty percent (50%) of the monthly premium is payable by the Town.
- C. Life insurance plan. The Board of Selectmen determine what type of life insurance plan is available to eligible Town employees.
  - (1) Eligibility.
    - (a) Regular full-time and regular part-time employees who are regularly scheduled to work twenty (20) hours or more per week.
    - (b) Elected Town officials who regularly work at least twenty (20) hours or more per week.
  - (2) Cost. The employee must pay fifty percent (50%) of the monthly premium cost and the Town will contribute a like amount.

**§ 31-22. COBRA rights.**

- A. On April 7, 1986, a federal law was enacted (Public Law 99-272, Title X) requiring that most employers sponsoring group medical plans offer employees and their families the opportunity for temporary extension of medical coverage (called "continuation coverage") at a group rate in certain instances where coverage under the plan would end.
- B. As an employee of the Town, you have the right to choose this continuation coverage if you lose your group medical coverage because of a reduction in your hours of employment or termination of your employment (for any reason other than gross misconduct on your part).
- C. Under the law, the employee or family member (to include divorced spouse or dependent child) has the responsibility to inform the Town Treasurer, the Town's group health plan administrator of a divorce, legal separation or a child losing dependent status under the Town's medical insurance plan.
- D. The Town has the responsibility to notify the insurance company's plan administrator of the employee's death, termination of employment or reduction in hours, or Medicare entitlement.
- E. When the insurance company's plan administrator is notified that one of the above-referenced events has happened, the insurance company's plan administrator will

in turn notify you that you have the right to choose continuation coverage. Under the law, you have at least sixty (60) days from the date you would lose coverage because of the events described above to inform the insurance company's plan administrator that you want continuation coverage.

- F. If you do not choose continuation coverage, your group medical insurance coverage will end.
- G. If you choose continuation coverage, the Town is required to give you coverage which, as of the time coverage is being provided, is identical to the coverage provided under the plan to similarly situated employees or family members. The law requires that you be afforded the opportunity to maintain continuation coverage for thirty-six (36) months unless you lost group medical coverage because of termination of employment or reduction in hours. In that case, the required continuation coverage period is eighteen (18) months.
- H. Under the law, you may have to pay part or all of the premium for your continuation coverage. The law also says that, at the end of the eighteen-month or thirty-six-month continuation coverage period, you may be allowed to enroll in an individual conversion medical plan provided under the Town medical insurance plan.

**§ 31-23. New employees.**

- A. Employees shall be engaged according to the following procedure:
  - (1) For regular full-time positions, by public advertisement and public notice.
  - (2) For part-time and temporary positions, by public notice and/or public advertisement.
  - (3) Submission of a written application or on a form provided by the Board of Selectmen.
  - (4) All new employees will receive a written terms of employment statement.
  - (5) A personal interview may be held by the Board of Selectmen, the department head, Personnel Committee members, Finance Committee members, appointed citizens or any combination of the above.
- B. Regular employees are on an introductory period during their first six (6) months of employment. During this period of time, the employee will be able to determine if the new job is suitable for him/her and the department head will have an opportunity to evaluate the employee's work performance.

**§ 31-24. Grievance procedure.**

- A. Process.
  - (1) There shall be a grievance procedure available to those employees whose rights, in their opinion, have been prejudiced in any way.



- (2) As used in this section, the word "grievance" shall be construed to mean a dispute between an employee and his/her supervisor or other employee.
- (3) It is understood that if the dispute is with another employee, he/she shall first present the problem to the department head within seven (7) days of the dispute. It is further understood that in the absence of a department head or if one of the employees to the dispute is the department head, the dispute shall be presented to the Personnel Committee within seven (7) days.
- (4) Any employee who has a grievance relative to hours or working conditions with the Town shall first present it to the Personnel Committee within seven (7) days.

**B. Appeal.**

- (1) An employee who disagrees with the grievance decision of his/her department head or the decision of the Personnel Committee may appeal to the Board of Selectmen as outlined below.
- (2) If the grievance has not been resolved by the department head, or the Personnel Committee, the employee shall notify the Board of Selectmen, in writing, regarding the problem within seven (7) days of the decision or failure to act. The Board of Selectmen will investigate the grievance and present its conclusions, in writing to the employee. Any decision of the Board of Selectmen is final and binding upon the parties and is not subject to any third-party review.

**§ 31-25. Standards of conduct.**

- A. Each employee has an obligation to observe and follow the Town's policies and to maintain proper standards of conduct at all times. Employees requiring a CDL license will be required to comply with the provisions of the Omnibus Transportation Employee Testing Act of 1991, as amended. If an individual's behavior interferes with the orderly and efficient operation of a department, corrective disciplinary measures will be taken. **[Amended 4-27-2001 ATM, Art. 28]**
- B. Disciplinary action may include a verbal warning, written warning, suspension without pay and discharge. The appropriate disciplinary action imposed will be determined by the Town. The Town does not guarantee that one form of action will necessarily precede another.
- C. The following misconduct may result in discipline up to and including discharge: flagrant misconduct, violation of the Town's bylaws, policies or safety rules, insubordination, poor attendance, possession, use or sale of alcohol or controlled substances on work premises or during work hours, poor performance, theft or dishonesty, physical harassment, sexual harassment or disrespect toward fellow employees, visitors or other members of the public. These examples are not all inclusive. Discharge decisions are based on an assessment of all relevant factors. **[Amended 4-29-2011 ATM, Art. 8]**

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## Chapter 40

### TOWN MEETINGS

#### ARTICLE I Time of Meetings

§ 40-1. Election and business meetings.

#### ARTICLE II Procedures

§ 40-1.1. Adoption of standards.

#### ARTICLE III Votes

§ 40-2. Two-thirds votes.

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

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#### ARTICLE IV Warrants

§ 40-3. Service.

§ 40-4. Closing.

§ 40-5. Statement of quantum of vote.

#### ARTICLE V Location of Meetings

§ 40-6. Location authorized.

#### ARTICLE I Time of Meetings [Adopted 4-26-1975 ATM, Art. 26]

§ 40-1. Election and business meetings.

The Annual Town Meeting for the election of officers, boards, commissioners and committees shall be held on the first Saturday in May of each year, and the business meeting for the transaction of town affairs shall be held on the last Friday in April of each year.

#### ARTICLE II Procedures [Adopted 4-26-1985 ATM, Art. 30]

§ 40-1.1. Adoption of standards.

The town adopts the procedures relating to Town Meetings as set forth in the book Town Meeting Time (by Richard B. Johnson, Benjamin A. Trustman and Charles Y. Wadsworth).

## ARTICLE III

## Votes

[Adopted 4-30-1999 ATM, Art. 25]

**§ 40-2. Two-thirds votes.**

Whenever a two-thirds vote is required by statute, such vote may be declared as such by the Moderator without a count and be recorded as such by the Clerk upon such declaration; provided, however, that the seven (7) or more members of a Town Meeting may challenge such declaration, at which time a count will be conducted, all as provided by MGL c. 39, § 15.

## ARTICLE IV

## Warrants

Adopted 4-28-2000 ATM, Arts. 39 through 41]

**§ 40-3. Service. [Amended 4-30-2004 ATM, Art. 22]**

Service of the warrant for the Annual Town Meeting, and for any Special Town Meeting, shall be made by posting attested copies thereof at the Town Office Building, the Sunderland Public Library and the Sunderland Post Office, and by mailing or delivering a notice of meeting addressed to each residence in the town not later than the time required under Massachusetts General Laws for the giving of notice of such Town Meeting.

**§ 40-4. Closing. [Amended 4-30-2004 ATM, Art. 22]**

All articles for insertion in the warrant for the Annual Town Meeting must be presented in writing to the Board of Selectmen in accordance with law on or before the Friday six (6) weeks prior to the Annual Town Meeting or such earlier time as may be fixed by the Board of Selectmen, and all articles for Special Town Meetings must be so presented on or before the date fixed by the Selectmen for closing of the warrant for such a meeting. The warrant for any Special Town Meeting shall remain open for at least seven (7) days after it is called by the Board of Selectmen. Within forty-eight (48) hours after calling any Town Meeting, the Selectmen shall post notice of the warrant closing date at the Sunderland Town Office Building, Sunderland Public Library and the Sunderland Post Office.

**§ 40-5. Statement of quantum of vote.**

Each article appearing in the warrant for every Town Meeting shall be accompanied therein by a printed statement, prepared by the Board of Selectmen, of the quantum of vote required for taking action under the article and citation to the legal authority establishing said quantum of vote, except that where, in the opinion of the Board of Selectmen, the quantum of vote and citation are not yet known with reasonable certainty at the time the warrant is prepared, a printed statement to this effect shall suffice.

ARTICLE V

**Location of Meetings**

**[Adopted 4-25-2003 ATM, Art. 13]**

**§ 40-6. Location authorized.**

Pursuant to provisions of MGL c. 39, § 9, the Town of Sunderland may hold its Annual and Special Town Meetings, and any adjournment thereof, at the Frontier Regional High School in the Town of Deerfield.



## **PART II**

# **GENERAL LEGISLATION**

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## Chapter 46

### BUILDING CODE

#### ARTICLE I Stretch Energy Code

§ 46-1. Definitions.

§ 46-2. Purpose.

§ 46-3. Applicability.

§ 46-4. Authority.

§ 46-5. Stretch Code.

§ 46-6. Start date.

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Permanent Building Committee — See Ch. 14, Art. I.  
Numbering of buildings — See Ch. 49.  
Smoke and heat detectors — See Ch. 104.  
Zoning — See Ch. 125.

Building standards — See Ch. 152.  
Flood hazard areas — See Ch. 157.  
Subdivision of land — See Ch. 194.

#### ARTICLE I Stretch Energy Code [Adopted 4-27-2012 ATM, Art. 16]

§ 46-1. Definitions.

INTERNATIONAL ENERGY CONSERVATION CODE (IECC) — The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency and is updated on a three year cycle. Since July 1, 2010, the baseline energy conservation requirements of the MA State Building Code defaulted to the latest published edition, currently the IECC 2009, with Massachusetts amendments as approved by the Board of Building Regulations and Standards.

STRETCH ENERGY CODE — Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8th edition Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve energy efficiency of buildings built to this code.

§ 46-2. Purpose.

The purpose of the Stretch Code, 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.

**§ 46-3. Applicability.**

The Stretch Code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 561, or 93, as applicable.

**§ 46-4. Authority.**

- A. A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix.
- B. 780 CMR 115.AA may be adopted or rescinded by any municipality in the Commonwealth in the manner prescribed by law.

**§ 46-5. Stretch Code.**

- A. The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Sunderland General Bylaws, Chapter 46.
- B. The Stretch Code shall be enforced by the inspector of buildings or building commissioner.

**§ 46-6. Start date.**

The Stretch Code shall be applicable beginning January 1, 2013.

## Chapter 56

### EMERGENCY RESPONSE AND ACCESS

**§ 56-1. Key boxes.**

**§ 56-2. Reimbursement for costs  
associated with release of**

**hazardous material, oil, or  
gasoline.**

**§ 56-3. Penalties and enforcement.**

**[HISTORY: Adopted 4-27-2012 ATM, Art. 10. Amendments noted where applicable.]**

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**§ 56-1. Key boxes.**

- A. When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the Chief may require the owner, lessee, tenant, or other party in control of said structure or area to install a key box in an accessible location approved by the Fire Chief.
- B. Said key box shall be of a design approved by the Fire Chief and shall contain all keys which the Fire Chief deems necessary to gain the required access to the structure or area. Two keys for said key box shall be supplied to the Fire Chief. It shall be the responsibility of the owner, lessee, tenant, or other party in control of a structure or area to:
  - (1) Assume all costs involved in the installation of the key box and supplying of keys to the Fire Chief;
  - (2) Keep said key box in good repair; and
  - (3) Ensure that all keys contained therein are those currently in use in the structure or area; and
  - (4) Provide the Fire Chief with new keys in the event the key box is replaced.

**§ 56-2. Reimbursement for costs associated with release of hazardous material, oil, or gasoline.**

- A. Any person or entity who causes or is legally responsible for a release or threat of release of hazardous material, oil or gasoline shall be liable, without regard to fault, for all costs of assessment, containment, and removal incurred by the Town of Sunderland in connection with such release or threat of release.
- B. Costs of assessment, containment, and removal activities shall include, but not be limited to:
  - (1) Actual payroll costs for all Town personnel involved;
  - (2) All costs for disposable materials used;
  - (3) All costs for repair/replacement of equipment or materials damaged;

- (4) Any other costs incurred by the Town such as replacement personnel, rental of equipment, etc.
- C. For purposes of this section, "hazardous material" shall be defined in accordance with Chapter 21E of the General Laws.

**§ 56-3. Penalties and enforcement.**

This chapter shall be enforced by the Fire Chief or his designee. The penalty for violations of this chapter shall be three hundred dollars (\$300) for each day a violation continues to exist, and shall be enforced through any lawful means, including, but not limited to, enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D.

## Chapter 49

### BUILDINGS, NUMBERING OF

**§ 49-1. Street numbers required.**

**§ 49-2. Specifications; visibility.**

**§ 49-3. Display of numbers.**

**§ 49-4. Assignment of numbers.**

**§ 49-5. Responsibility to display; time limit.**

**§ 49-6. Enforcement; violations and penalties.**

**[HISTORY: Adopted 4-24-1992 ATM, Art. 39. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Zoning — See Ch. 125.

Building standards — See Ch. 152.

Subdivision of land — See Ch. 194.

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**§ 49-1. Street numbers required.**

Street numbers shall be assigned and attached to each dwelling, place of business, shop and industrial site and all other buildings which are not accessory in nature in the Town of Sunderland.

**§ 49-2. Specifications; visibility.**

Such number shall be made of permanent, weatherproof materials, shall be at least four (4) inches in height in a contrasting color and shall be clearly visible from the street or roadway upon which the structure fronts.

**§ 49-3. Display of numbers.**

Any structure that is not visible from the street or roadway shall have the assigned number posted on a suitable support at the entrance to the driveway that services such structure.

**§ 49-4. Assignment of numbers. [Amended 4-27-2001 ATM, Art. 24]**

The numbers posted shall be those assigned to each structure by the Fire Chief and as filed in the office of the Town Clerk. The Fire Chief or the Town Clerk shall advise the owners of the property of the assigned or reassigned number in writing at the property's address.

**§ 49-5. Responsibility to display; time limit.**

It shall be the responsibility of each property owner in the town to obtain, display and maintain the assigned street number within ninety (90) days of adoption of this chapter at the Town Meeting.

**§ 49-6. Enforcement; violations and penalties.**

This chapter shall be enforced by the Police Department. Failure to comply with this chapter shall subject property owners to a fine of not more than fifty dollars (\$50.) for each offense.

## **Chapter 57**

### **FALSE BURGLAR AND FIRE ALARMS**

#### **§ 57-1. Violations and penalties; appeals; enforcement.**

**[HISTORY: Adopted 4-24-2009 ATM, Art. 25. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Noncriminal disposition — See Ch. 1, Art. I.

Peace and good order — See Ch. 89.

#### **§ 57-1. Violations and penalties; appeals; enforcement.**

Upon the response by the Police Department to false burglar alarms at a premises or the Fire Department to false fire alarms at a premises, a penalty may be imposed on the party or parties responsible for the alarm according to the following schedule:

- A. For the fourth false alarm within a twelve (12) month period, a one hundred dollar \$100.00 fine shall be imposed. For the fifth false alarm within the twelve (12) month period, a two hundred dollar (\$200.00) fine shall be imposed. For the sixth and all subsequent false alarms within the twelve (12) month period, a three hundred dollar (\$300.00) fine shall be imposed. For purposes of this bylaw, the twelve (12) month period shall begin with the first false alarm and extend for 11 months thereafter. After the expiration of such twelve (12) month period, a new twelve (12) month period shall begin with the occurrence of a false alarm.
- B. Appeals shall be made to the Police Chief for false burglar alarms, and to the Fire Chief for false fire alarms. Appeals must be submitted, in writing, to the Police or Fire Chief within fourteen (14) days after the issuance date of the citation. A hearing shall be conducted by the Police Chief or the Fire Chief within fourteen (14) days after receipt of the written appeal.
- C. The provisions of this bylaw shall be enforced by the Sunderland Police Chief with regard to burglar alarms, or by the Sunderland Fire Chief with regard to fire alarms, or their respective designees, or by any police officer of the Town, through any lawful means, including, but not limited to, enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D.

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## **Chapter 58**

### **FARMING**

#### **ARTICLE I Right to Farm**

**§ 58-1. Purpose and intent.**

**§ 58-2. Definitions.**

**§ 58-3. Right to farm declaration.**

**§ 58-4. Notification to residents and real estate buyers.**

**§ 58-5. Resolution of complaints.**

**§ 58-6. Severability.**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Agricultural Commission — See Ch. 14, Art. IV.  
Peace and good order — See Ch. 89.**

**Zoning — See Ch. 125.  
Subdivision of land — See Ch. 194.**

#### **ARTICLE I Right to Farm**

**[Adopted 4-24-2009 ATM, Art. 12]**

##### **§ 58-1. Purpose and intent.**

- A. The Town of Sunderland finds that farming is an essential and valued activity, which provides fresh food, clean air, economic diversity, local employment, and open spaces to all the citizens of our Town. This bylaw is intended to encourage the pursuit of agriculture, promote agricultural-based economic and employment opportunities, and protect farmland within the Town of Sunderland. The purpose is to allow agricultural uses and related activities to function in harmony with the community, Town agencies and others. This bylaw shall apply to all jurisdictional areas within the Town.
- B. This bylaw restates with emphasis the right to farm accorded to all citizens of the Commonwealth of Massachusetts as stated under the Constitution and General Laws and Regulations, including but not limited to Article 97 of the Constitution, MGL c. 40A, § 3, Paragraph 1 (the "Zoning Act"); c. 90, § 9; c. 111, § 125A; and c. 128, § 1A. We the citizens of Sunderland restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution (the "Home Rule Amendment").

##### **§ 58-2. Definitions.**

- A. "Farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or uses accessory thereto. "Commercial" shall be defined by the minimum acreage requirement or the gross sales and program payment requirement specified in MGL c. 61A, § 3, as amended. "Farm" shall include

youth-related agricultural activities, such as but not limited to 4-H, irrespective of minimum acreage or gross sales and program payment requirements. "Farming" or "agriculture" shall include, but not be limited to the following:

- (1) Farming in all its branches and the cultivation and tillage of soil;
- (2) Dairying;
- (3) Orchards;
- (4) Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- (5) Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- (6) Raising of livestock, including horses;
- (7) Keeping of horses as a commercial enterprise; and
- (8) Keeping and raising of poultry, sheep, goats, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

B. "Farming" shall encompass activities including, but not limited to, the following:

- (1) Operation and transportation of slow-moving farm equipment over roads within the Town;
- (2) Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;
- (3) Application of manure, fertilizers and pesticides;
- (4) Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand, including signage thereto;
- (6) Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products;
- (7) On-farm relocation of earth and the clearing of ground for farming operations;
- (8) Revitalizing drainage or irrigation ditches, picking stone, erecting, repairing or maintaining fences, and clearing, rejuvenation and maintaining pastures; and
- (9) Herding of livestock from area to area, including along roads.

**§ 58-3. Right to farm declaration.**

The right to farm is hereby recognized to exist within the Town of Sunderland. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this bylaw are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, consideration shall be given to both traditional customs and procedures as well as to new practices and innovations. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land. The protections contained in this bylaw do not supersede any applicable zoning or legal restrictions associated with agricultural operations or other local, state or federal laws or regulations.

**§ 58-4. Notification to residents and real estate buyers.**

- A. In order to promote harmony between farmers and their neighbors, residents shall be notified by the Town as set forth below and buyers and occupants shall be notified by landholders and/or their agents (and assigns) prior to the sale or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, through written notification, as follows:

"It is the policy of the Town of Sunderland to conserve, protect, and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform residents and buyers that the property they occupy or are about to acquire or occupy lies within a town where farming activities occur. Such farming activities (which may occur on holidays, weekdays, and weekends by night or day) may include, but are not limited to, activities that cause noise, dust and odors. Occupying land within Sunderland means that one should expect and accept such conditions as a normal and necessary aspect of living in such an area. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations."

- B. A copy of the above notification shall be posted in the Town Hall, and at any other location at the Board of Selectmen's sole discretion. The notification shall also be available for distribution upon request in the offices of the Board of Selectmen, Board of Assessors, and the Town Clerk. A copy of the notification shall be included in the Town's Annual Report and may, at the Board of Selectmen's sole discretion, be mailed to all Town residents from time to time.

**§ 58-5. Resolution of complaints.**

Any person having a complaint about a farm or farming activity or practice is encouraged to seek an amicable resolution to the complaint, including talking directly with the involved farmer. Such person may, notwithstanding pursuing any other available remedy, request resolution assistance from the Board of Selectmen. Such a request does not suspend the time within which to pursue any other available remedies. The Board of Selectmen may, at its sole discretion and to the extent the Board believes resolution of the matter may be facilitated by involvement of the Town, appoint a panel of at least three individuals, to include representation from farmers, or refer such request to a Sunderland Agricultural Commission, should one exist, or other appropriate board or officer. Said panel, Agricultural Commission or board or officer shall review and facilitate the resolution of such a request and report its recommendations to the Board of Selectmen within the agreed-upon time frame. Notwithstanding any other provision of this section, however, the Board of Selectmen shall not be required to forward a complaint filed in accordance herewith or to take any other action whatsoever with regard thereto.

**§ 58-6. Severability.**

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

## **Chapter 60**

### **FEES**

**[Fees promulgated by bylaw at the Annual Town Meeting are on file in the office of the Town Clerk.]**



## Chapter 78

### LITTERING

**§ 78-1. Disposal of refuse, rubbish, etc., on highways or any public land, private property, or in coastal or inland waters.**

**[HISTORY: Adopted 4-28-2006 ATM, Art. 27. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Collection of rubbish — Sec. Ch. A203.

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**§ 78-1. Disposal of refuse, rubbish, etc., on highways or any public land, private property, or in coastal or inland waters.**

- A. No person may, in violation of G.L. c. 270, § 16, place, throw, deposit or discharge or cause to be placed, thrown, deposited or discharged, trash, bottles or cans, refuse, rubbish, garbage, debris, scrap, waste or other material of any kind on a public highway or within 20 yards of a public highway, or on any other public land, or in or upon coastal or inland waters, as defined in G.L. c. 131, § 1, or within 20 yards of such waters, or on property of another, or on lands dedicated for open space purposes, including lands subject to conservation restrictions and agricultural preservation restrictions as defined in G.L. c. 184.
- B. The provisions of this bylaw may be enforced by the Police Officers of the Town of Sunderland, and the Town's public health officers, health agents, or health directors, by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to G.L. c. 40, § 21D.
- C. Each day a violation exists shall constitute separate violation. When enforced through noncriminal disposition, the penalties shall be as follows:
  - (1) First and subsequent violations for disposal of hazardous waste, as defined under G.L. c. 21C, § 2, and any other state or federal law or regulation promulgated thereunder, including hazardous medical waste: \$300.00.
  - (2) First and subsequent violations for disposal of non-hazardous materials: \$250.00.

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## Chapter 89

### PEACE AND GOOD ORDER

§ 89-1. Noise.

§ 89-2. Alcoholic beverages.

§ 89-3. Looking into houses.

§ 89-4. Violations and penalties.

§ 89-5. Public consumption of marijuana  
or tetrahydrocannabinol.

§ 89-6. Gatherings on private property.

[HISTORY: Adopted 4-28-1989 ATM, Art. 19. Amendments noted where applicable.]

#### GENERAL REFERENCES

False burglar and fire alarms — See Ch. 57.  
Littering — See Ch. 78.

Barking dogs — See Ch. 130.  
Nuisances — See Ch. 166.

#### § 89-1. Noise. [Amended 4-27-2007 ATM, Art. 24]

It shall be unlawful for any person or persons occupying, having the charge of or being present in or about any building, structure, premises, shelter, vehicle, boat or conveyance or any part thereof in the Town (other than that section of any establishment licensed under Chapter 138 of the General Laws) at any time to cause, suffer, allow or countenance any unnecessary loud, excessive or unusual noise, including any such noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument or reproducing devices or instrument, or in the playing of any band, orchestra, musician or group of musicians or in the use of any device to amplify the aforesaid or the making of loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise, where such noise is plainly to abutting residential units, also including abutting properties. The fact that the noise is plainly audible to said abutting residential units or abutting properties shall constitute prima facie evidence of a violation of this chapter. Any person shall be deemed in violation of the chapter who shall make or aid and abet or cause or suffer or assist in the making of any such noise.

#### § 89-2. Alcoholic beverages.

- A. It shall be unlawful for any person who has not attained the age of twenty-one (21) to consume or have in his or her possession alcoholic beverages in public places within the town.
- B. It shall be unlawful for any person to consume alcoholic beverages on public highways or in public parking places, including vehicles thereon, within the town.

#### § 89-3. Looking into houses.

No person, except an officer of the law in performance of his duties, shall enter upon or remain upon the premises of another with the intention of peeking, spying or looking into the

window, door or other aperture of a house or other structure, in any manner or upon any person or persons therein.

**§ 89-4. Violations and penalties. [Amended 4-24-2009 ATM, Art. 26; 4-27-2012 ATM, Art. 9]**

Violations of any of the provisions or requirements of Chapter 89 may be enforced through any lawful means, including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 41, § 21, or by noncriminal disposition pursuant to MGL c. 40, § 21D, by the Board of Selectmen, their duly authorized agents, or any police officer of the Town. The fine for any violation of this chapter, whether enforced by criminal indictment or complaint, or noncriminal disposition, shall be three hundred dollars (\$300.00) for first and subsequent violations, unless otherwise specified. In addition, whoever violates any of the provisions or requirements of the bylaws set forth in §§ 89-1, 89-2, 89-3, 89-6C and 89-6D shall be subject to arrest. All prosecutions of any such violations shall begin within six (6) months from the date of the offense.

**§ 89-5. Public consumption of marijuana or tetrahydrocannabinol. [Added 4-24-2009 ATM, Art. 24]**

- A. No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.
- B. This bylaw may be enforced through any lawful means, including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21, or by noncriminal disposition pursuant to MGL c. 40, § 21D, by the Board of Selectmen, their duly authorized agents, or any police officer. The fine for violation of this bylaw shall be one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200.00) for the second offense and three hundred dollars (\$300.00) for a third or subsequent offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

**§ 89-6. Gatherings on private property. [Added 4-27-2012 ATM, Art. 8]**

- A. Purpose. In accordance with the Town of Sunderland's home rule authority and to protect the health, safety, and welfare of the inhabitants of the Town, this bylaw shall permit the Town to impose liability on owners and other responsible persons for the nuisances and harm caused by loud and unruly gatherings on private property and shall discourage the consumption of alcoholic beverages by underage persons at such gatherings.
- B. Definitions.

**ALCOHOL** — Means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

**ALCOHOLIC BEVERAGE** — All liquids intended for human consumption as a beverage which contain 1/2 of 1% or more of alcohol by volume at 60° F., including malt beverages.

**EVICTED** — Means actively trying to evict a tenant from a premise by delivery of a notice to quit and subsequent court proceedings if a tenant fails to vacate the premises.

**GATHERING** — Is a party, gathering, or event where a group of persons has assembled or is assembling for a social occasion or social activity.

**LEGAL GUARDIAN** — Means a person who, by court order, is the guardian of the person of a minor or a public or private agency with which a minor has been placed by the court.

**PARENT** — Means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

**PREMISES** — Means any residence or other private property, place, or location, including any commercial or business property.

**PROPERTY OWNER** — Means the legal owner of record as listed by the Tax Assessors' records.

**PUBLIC NUISANCE** — Means a gathering of persons on any premises in a manner which constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood. Unlawful conduct includes, but is not limited to, excessive noise, excessive pedestrian and vehicular traffic, obstruction of public streets by crowds or vehicles, illegal parking, public urination, the service of alcohol to underage persons, fights, disturbances of the peace, and litter.

**RESPONSE COSTS** — Are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering as set forth in a schedule of costs established by the Select Board.

**UNDERAGE PERSON** — Means any person under 21 years of age.

- C. Consumption of alcohol by underage persons. Except as permitted by state law, it is unlawful for any underage person to:
- (1) Consume at any public place or any place open to the public any alcoholic beverage; or
  - (2) Consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverage the underage person is being supervised by his or her parent or legal guardian.
- D. Duties of person hosting, permitting or allowing gathering.

- (1) It is the duty of any person having control of any premises who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any underage person at the gathering. Reasonable steps include, but are not limited to, controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting driver's licenses or other government-issued identification cards to ensure that underage persons do not consume alcoholic beverages while at the gathering; and supervising the activities of underage persons at the gathering.
  - (2) A gathering constituting a public nuisance may be abated by all reasonable means, including but not limited to an order by the police requiring the gathering to be disbanded and citation and/or arrest of any persons under any applicable provision of local or state law.
  - (3) It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one underage person consumes an alcoholic beverage, provided that the person having control of the premises either knows an underage person has consumed an alcoholic beverage or reasonably should have known that an underage person consumed an alcoholic beverage and the person having control of said premises failed to take all reasonable steps to prevent the consumption of an alcoholic beverage by an underage person as set forth in subsection (1) of this section.
  - (4) This section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between an underage person and his or her parent or legal guardian.
  - (5) This section shall not apply to any Massachusetts Alcoholic Beverages Control Commission licensee at any premises regulated by the Massachusetts Alcoholic Beverages Control Commission.
- E. Mailing of notice to property owner. Notice of response by police or other local officials to a gathering shall be mailed to any property owner listed on the Town of Sunderland property tax assessment records and shall advise the property owner that the third such response on the same premises within a one-year period, as measured from the date of the first notice, shall result in liability of the property owner for all penalties associated with such response as more particularly described below.
- F. Liability for fines and response costs.
- (1) If the Police Department is required to respond to a gathering constituting a public nuisance on the premises, the following persons shall be jointly and severally liable for fines as set forth below. Response costs may also be assessed.
    - (a) The person or persons residing on or otherwise in control of the property where such gathering took place.
    - (b) The person or persons who organized or sponsored such gathering.

- (c) All persons attending such gatherings who engage in any activity resulting in the public nuisance.
- (2) If the Police Department is required to respond to a gathering constituting a public nuisance on the premises more than twice in any one-year period, as measured from the date of the first response, the following persons shall be jointly and severally liable for fines as set forth below. Response costs may also be assessed.
  - (a) The person or persons who own the property where the gathering constituting the public nuisance took place, provided that notice of the first and second responses has been mailed to the owner of the property as set forth herein and the gathering occurs at least 14 days after the mailing of the second such notice. The owners of the property shall not be held responsible for any violation and penalties if they are actively trying to evict a tenant from the property. The one-year time period for violations for a property shall pertain only to the same residents occupying the property who have had the prior violation(s). New residents shall start a new time cycle of one year should they violate the bylaw.
  - (b) The person or persons residing on or otherwise in control of the property where such gathering took place.
  - (c) The person or persons who organized or sponsored such gathering.
  - (d) All persons attending such gatherings who engage in any activity resulting in the public nuisance.
- G. Regulations. The Select Board is hereby authorized to promulgate regulations to implement this bylaw.
- H. Enforcement.
  - (1) This bylaw shall be enforced by criminal complaint in the District Court. Violations shall be punishable by a fine of \$300. In the alternative it may be enforced by the noncriminal disposition process of MGL c. 40, § 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be any police officer of the Town of Sunderland. If enforced pursuant to noncriminal disposition, the following fine shall apply:
    - (a) First and subsequent violations: \$300.
  - (2) The Town of Sunderland may additionally seek administrative costs and response costs associated with enforcement of §§ 89-6C and 89-6D through all remedies or procedures provided by state or local law.
  - (3) Sections 89-6C and 89-6D shall not limit the authority of police officers to make arrests for any criminal offense arising out of conduct regulated by §§ 89-6C and 89-6D, nor shall they limit the ability of the Town of Sunderland or the Commonwealth of Massachusetts to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of §§ 89-6C and 89-6D.

- I. Relationship to state and federal law; severability. No provision of this bylaw shall apply where prohibited or preempted by state or federal law. If any provision of this bylaw, or the application thereof to any person or circumstances, is declared invalid, that invalidity shall not affect other provisions or applications of this bylaw which can be given effect without the invalid provisions or application; to this end the provisions of this bylaw are severable.

**Chapter 91**  
**PEDDLING AND SOLICITING**

**§ 91-1. License required; payment of fee; issuance.**

**[HISTORY: Adopted 2-23-1975 ATM, Art. 15. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Tag sales — See Ch. 100.

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**§ 91-1. License required; payment of fee; issuance.**

Every transient vendor, before making any sales of goods, wares or merchandise in the town, shall make application to the Selectmen and file with them a statement relating to the nature of the goods, wares or merchandise intended to be sold, and upon payment of an annual license fee to be determined by said Board and after approval of said Selectmen and the Chief of Police, a license shall be issued, all in accord with the provisions and penalties provided in Chapter 101 of the Annotated Laws of Massachusetts.

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**Chapter 95**  
**(RESERVED)**

**[Former Ch. 95, Recycling, adopted 9-19-1988 STM, Art. 3, was repealed 4-27-2012  
ATM, Art. 11]**

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## **Chapter 100**

### **SALES, CASUAL**

**§ 100-1. Restrictions.**

**§ 100-2. Application for permit; fee.**

**[HISTORY: Adopted 9-27-1977 STM, Art. 10. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Peddling and soliciting — See Ch. 91.**

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**§ 100-1. Restrictions.**

- A. No individual real estate owner, or tenant thereof, shall conduct, within or without said premises so occupied, more than two (2) casual sales of any personal property displayed to the general public (exclusive of farm animals and farm equipment which may be sold in the normal course of business) within any year, beginning from the date of the first such sale.
- B. It is further provided that such sales must not include any merchandise purchased for the purpose of said sale or obtained from any source whatsoever, which were not originally the personal property of the applicant.

**§ 100-2. Application for permit; fee. [Amended 12-12-1992 STM, Art. 13]**

The applicant shall apply for a permit to conduct such sale from the Police Department, accompanied by a fee as determined by the Board of Selectmen. The Chief of Police shall determine whether the applicant is qualified to operate said sale.

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## **Chapter 104**

### **SMOKE AND HEAT DETECTORS**

#### **ARTICLE I** **Up to Six Dwelling Units**

**§ 104-1. Requirements.**

**§ 104-2. Enforcement official.**

#### **ARTICLE II** **Six or More Dwelling Units**

**§ 104-3. Requirements.**

**§ 104-4. Enforcement official.**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Building standards — See Ch. 152.**

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#### **ARTICLE I** **Up to Six Dwelling Units** **[Adopted 4-29-1988 ATM, Art. 28]**

**§ 104-1. Requirements.**

Any building or structure consisting of one (1) to six (6) dwelling units shall be required to install either an approved monitored battery-powered smoke detector or an approved primary-power smoke detector. It shall be installed on each level of habitation and on the basement level; provided, however, that the head of the Fire Department shall allow the installation of an approved monitored battery-powered smoke detector or approved primary-power smoke detector which shall be installed in the following manner: An approved monitored battery-powered smoke detector or an approved primary-power smoke detector shall be installed on the ceiling of each stairway leading to the floor above, near the base of but not within each stairway, and an approved monitored battery-powered smoke detector or an approved primary-power smoke detector shall be installed outside of each separate sleeping area.

**§ 104-2. Enforcement official.**

The head of the Fire Department shall enforce the provisions of this article.

ARTICLE II  
**Six or More Dwelling Units**  
[Adopted 4-29-1988 ATM, Art. 29]

**§ 104-3. Requirements.**

Apartment houses containing six (6) or more dwelling units, hotels, boarding- or lodging houses or family hotels which are not regulated by MGL c. 148, §§ 26A and 26B, shall be equipped with an automatic smoke or heat detector in each dwelling unit and hallway floor.

**§ 104-4. Enforcement official.**

The head of the Fire Department, as defined in MGL c. 148, § 1, shall enforce the provisions of this article.

## Chapter 106

### STREETS AND SIDEWALKS

#### ARTICLE I Deposits and Accumulations

§ 106-1. Prohibitions; penalties.

#### ARTICLE II Driveway Construction

§ 106-2. Entrance permit required; fee.

#### ARTICLE III Repairs and Excavations

§ 106-3. Definitions.

§ 106-4. Purpose.

§ 106-5. Permit required.

§ 106-6. Permit application and review procedure.

§ 106-7. Standards.

§ 106-8. Appeal procedure.

§ 106-9. Waivers.

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Zoning — See Ch. 125.

Vehicles and traffic — See Ch. 148.

Nuisances — See Ch. 166.

Subdivision of land — See Ch. 194.

#### ARTICLE I Deposits and Accumulations [Adopted 2-2-1948 ATM, Art. 29]

§ 106-1. Prohibitions; penalties.

Any person being the owner, tenant, sharecropper or occupant of any land abutting upon any town way, county road or other public highway, except only a state highway in the Town of Sunderland, which has been improved by the application thereto of gravel, tar, oil, asphalt, Tarvia, bitumen or similar substances or combinations or preparations therefor, who shall so plow, harrow, cultivate or in any other way or otherwise so farm, work or use said abutting land by himself, his agent or servant or under his direction or in the course of said husbandry or otherwise shall so use such adjoining improved way, road or highway as thereby to cause to be deposited or to accumulate upon the improved surface of such way, road or highway gravel, sand, sod, earth, manure, compost, debris, detritus or wash of any kind, or who shall plow, harrow or cultivate into any such mentioned way so as to disturb or injure the shoulders or surface of said roadway, shall incur for violation of this article a penalty by fine not exceeding twenty dollars (\$20.) for each offense, to be recovered upon complaint before the District Court of Franklin; and, upon any such violation or neglect, the Superintendent of Roads and Streets of the Town of Sunderland may cause such deposit or accumulation to be removed from the road surface or repairs to be made to any damaged portion of the roadway at the expense of the

person liable therefor, and such expense, to an amount not exceeding the penalty, may be recovered in an action of contract by the Town of Sunderland.

**ARTICLE II**  
**Driveway Construction**  
**[Adopted 8-28-1986 STM, Art. 8]**

**§ 106-2. Entrance permit required; fee.**

No person shall construct or alter the location of any driveway onto a town way in the town without first securing a permit therefor, the fee for which shall be twenty-five dollars (\$25.), from the Highway Superintendent, who shall issue the permit if the proposal conforms generally to the standards of the Massachusetts Department of Public Works as to driveways connecting with state highways and if the driveway itself conforms to safety standards for entrance and exit onto town ways; and no person having secured such a permit shall depart from such standards in constructing or altering such driveways.

**ARTICLE III**  
**Repairs and Excavations**  
**[Adopted 4-24-1992 ATM, Art. 41]**

**§ 106-3. Definitions.**

These definitions are for the purposes of this article only and shall have the following meanings indicated:

**HIGHWAY SUPERINTENDENT** — The person responsible and having charge of the maintenance and repair of public ways in the Town of Sunderland.

**PUBLIC WAY** — A public or private way that is maintained by a public agency.

**ROAD SURFACE CUT** — Any construction through a public way which will disturb the surface of the way.

**§ 106-4. Purpose.**

To provide for the orderly control and regulation of road surface cuts within public ways by enforcing standards for the repair of road surfaces affected by such actions.

**§ 106-5. Permit required.**

Any person or entity doing work which requires a road surface cut in a public way must first obtain a written permit from the Highway Superintendent.



**§ 106-6. Permit application and review procedure.**

- A. The applicant seeking a road surface cut permit shall make a written submission to the Highway Superintendent, including three (3) copies of the application for a road surface cut permit and a plan showing the following:
  - (1) Any cut that is to be created, altered or closed and the relationship to the public way, including distance, type of roadway, etc.
  - (2) Construction details sufficient to guarantee and describe compliance with § 106-7, Standards.
- B. The Highway Superintendent shall notify the applicant making the application within twenty-one (21) days, in writing, indicating the following:
  - (1) The application conforms to the town's standards and is approved;
  - (2) The application conforms to the town's standards subject to certain modifications, conditions or restrictions; or
  - (3) The application does not conform to the town's standards and is denied.
- C. Once an approved application is issued, the Highway Superintendent must be notified at least twenty-four (24) hours before construction commences on any project which will disturb the surface of any public way.
- D. If the Highway Superintendent takes no action within twenty-one (21) days of the completed submission, the road surface cut permit is automatically denied.
- E. The Highway Superintendent shall inspect the project during and after construction and shall have the authority to halt construction and/or prohibit access if construction is not in accordance with the approved plan and this article, until objectionable conditions are corrected.
- F. The Highway Superintendent shall sign off on the permits after satisfactory completion of construction.

**§ 106-7. Standards.**

- A. Excavation.
  - (1) When excavation is to be done within the limits of a paved surface, the surface shall be cut to a straight and vertical edge. Care shall be taken not to disturb or in any way damage the surface beyond these edges. Any equipment working on the project which may, in the opinion of the Highway Superintendent, damage the surface, shall work or be propelled on suitable platforms to prevent any marking or other damage to the roadway surface. Care shall be taken in stacking excavated materials on the surface and not to mark or in any way damage the roadway surface.
  - (2) No surface will be approved, on roads having a bituminous concrete surface, within five (5) years of new surfacing.

- (3) Excavation of other roads, not paved, shall be coordinated in such a way as to prevent damages in the judgment of the Highway Superintendent.
- B. Backfilling trenches. All roads shall be backfilled and compacted in six-inch lifts to within one (1) foot of the surface. The remaining foot shall be filled with gravel bank run or better, with no stones larger than two and one-half (2½) inches in diameter, and brought to grade.
- C. Replacing surface. For paved roads, the permanent surface shall not be replaced for at least sixty (60) days after the above work has been completed. Following the completion of the work, a temporary surface of bituminous patch shall be placed prior to placement of the permanent surface. The permanent surface shall be replaced no later than six (6) months after the work has been completed. The gravel backfill shall be excavated to a depth of at least three (3) inches. Three (3) inches of bituminous concrete, Type 1-1, shall be placed and compacted in two layers of one and one-half (1½) inches for each layer, so that the finished surface shall be level with the roadway surface. The person applying for the permit is responsible for the work, which must meet the satisfaction of the Highway Superintendent.
- D. Cleanup. All ledge, boulders or other debris left from construction shall be removed from within the roadway layout by the contractor before the project is accepted by the town.
- E. Reimbursement to town. Any cost incurred by the town having to repair work not conducted properly in accordance with this article will be the liability of the permit holder and will be billed accordingly.
- F. Insurance. Contractors shall furnish, to the satisfaction of the town, a certificate of insurance showing adequate coverage for the project being undertaken.
- G. Safety of the public during construction. Persons securing a permit are responsible for ensuring the safety of the public in the excavated area. Adequate safety and warning devices must be placed at appropriate locations to warn and protect the motoring and pedestrian public. Such devices should include reflectorized signs, barricades and barrels along with lights. Any liability arising from improper safeguards shall be borne by the person to whom the permit was issued. The Town of Sunderland is not responsible for providing devices for safety signage.

#### **§ 106-8. Appeal procedure.**

If the road surface cut permit is denied, an appeal may be made within twenty (20) days to the Board of Selectmen. Said appeal shall include the following:

- A. The date of submission of the application and a copy of the same.
- B. A copy of the Highway Superintendent's denial of the application.
- C. The reasons setting forth why the appellant feels the permit should not have been denied.

**§ 106-9. Waivers.**

The standards of this article may be waived for road surface cuts required for noncontinuous year-round uses such as agriculture, forestry and such other uses; however, such accessways will be subject to more general standards based on general safety considerations and the need for the protection of public ways. Any access from a public way which does not serve a building and is not used continuously on a year-round basis, such as access for agriculture, forestry and other uses, must apply for a permit under this article but may, in addition, apply for a waiver of the standards set forth in § 106-7.

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## **Chapter 110**

### **TAXATION**

#### **ARTICLE I Senior Citizens' Abatement**

##### **§ 110-1. Abatement voted.**

#### **ARTICLE II License Revocation**

##### **§ 110-2. Authority.**

##### **§ 110-3. List compiled.**

##### **§ 110-4. Notification; hearing; suspension or revocation of license.**

##### **§ 110-5. Payment agreement.**

##### **§ 110-6. Waivers.**

##### **§ 110-7. Exemptions.**

#### **General and Special Taxation Laws**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I Senior Citizens' Abatement [Adopted 4-27-1984 ATM, Art. 16]**

##### **§ 110-1. Abatement voted.**

The town has voted an abatement of a five-hundred-dollar property tax for residents seventy (70) years or older under the change in Clause 41B of the Property Tax Abatement Law.

#### **ARTICLE II License Revocation [Adopted 9-12-1991 STM, Art. 13]**

##### **§ 110-2. Authority.**

The following article has been adopted pursuant to MGL c. 40, § 57.

##### **§ 110-3. List compiled.**

The Tax Collector or other municipal official responsible for 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, assessment, betterment 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.

**§ 110-4. Notification; hearing; suspension or revocation of license.**

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for the denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as the date of issuance of said certificate.

**§ 110-5. Payment agreement.**

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said 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.

**§ 110-6. Waivers.**

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

**§ 110-7. Exemptions.**

This section shall not apply to the following licenses and permits: open burning, MGL c. 148, § 13; bicycle permits, MGL c. 85, § 11A; sales of articles for charitable purposes, MGL c. 101, § 33; children work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. 140, § 137; fishing, hunting, trapping license, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; and theatrical events, public exhibition permits, MGL c. 140, § 181.

## TAXATION

### *110 Attachment 1*

#### Town of Sunderland

### GENERAL AND SPECIAL TAXATION LAWS

The following is a listing of General Laws and Special Acts relating to taxation accepted by the Town of Sunderland.

<b>Date Accepted</b>	<b>Statutory Reference</b>	<b>Subject</b>
4-27-1990, Art. 26	Ch. 402, Acts of 1987	Collection of property tax not in excess of \$50
4-27-1990, Art. 28	MGL c. 59, § 57B	Interest billed on unpaid tax
4-26-1991, Art. 40	MGL c. 60, § 2	Abate tax bills less than \$10
9-12-1991, Art. 12	MGL c. 40, § 57	Revocation or suspension of licenses for failure to pay local taxes
10-21-1993, Art. 31	MGL c. 40, § 5F	Ambulance receipts
1997, Art. 9	MGL c. 59, § 5, Clause 41C	Real estate tax exemption
4-28-2006, Art. 26	MGL c. 59, § 5, Clause 54	Establishment of a minimum fair cash value of \$1,500.00 for personal property accounts to be taxed
4-24-2009, Art. 4	MGL c. 59, § 5, Clause 41C	Increase exemption allowed by 100% from \$500 to \$1,000 for qualified senior citizens
4-24-2009, Art. 5	MGL c. 59, § 5, Clause 41C	Increase gross receipt limits to \$20,000 for single and \$30,000 for married to determine eligibility requirements for seniors
4-24-2009, Art. 6	MGL c. 59, § 5, Clause 41C	Increase whole estate limit to \$40,000 for single and \$55,000 for married to determine eligibility requirements for seniors
4-24-2009, Art. 7	MGL c. 59, § 5, Clause 41C	Reduce eligibility age from 70 years to 65 years for senior citizen exemptions
4-24-2009, Art. 8	MGL c. 59, § 5, Clause 41A	Increase gross receipts that seniors may have in the prior calendar year to be eligible to defer property taxes from \$20,000 to \$40,000
4-24-2009, Art. 18	MGL c. 60, § 15	Authorize Town Treasurer to charge a fee of \$10 for each written demand issued by the Collector

## SUNDERLAND CODE

<b>Date Accepted</b>	<b>Statutory Reference</b>	<b>Subject</b>
8-17-2009, Art. 3	MGL c. 64L, § 2(a)	Authorizing the imposition of a local excise in the statutory amount of .75% on the sale of restaurant meals originating within the Town
8-17-2009, Art. 4	MGL c. 64G, § 3A	Authorizing the imposition of a local excise (6%) of a rate on the rental of rooms in hotels, motels, lodging houses and bed-and-breakfast establishments within the Town
8-17-2009, Art. 5	MGL c. 59, § 5K	Establishing a Senior Citizen Property Tax Work-Off Abatement Program



## Chapter 119

### VEHICLES, UNREGISTERED

**§ 119-1. Number restricted.**

**§ 119-3. Definitions.**

**§ 119-2. Exceptions.**

**§ 119-4. Violations and penalties.**

**[HISTORY: Adopted 3-1-1969 ATM, Art. 16; amended in its entirety 4-28-1989 ATM, Art. 20. Subsequent amendments noted where applicable.]**

#### GENERAL REFERENCES

Vehicles and traffic — See Ch. 148.  
Nuisances — See Ch. 166.

Zoning regulation of unregistered motor vehicles — See  
§ 125-12.

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#### **§ 119-1. Number restricted.**

No person shall park, store or otherwise place or leave in or upon land in any district within the town more than one (1) junk car or truck for a period of more than thirty (30) days, nor more than one (1) unregistered car or truck for a period of more than six (6) months following the expiration date of the registration of said motor vehicle, except as hereinafter provided.

#### **§ 119-2. Exceptions.**

Exceptions shall be:

- A. Motor vehicles within premises used and duly licensed for commercial automotive purposes in compliance with all licensing and zoning requirements.
- B. Motor vehicles enclosed within a building.
- C. Farm and construction equipment.

#### **§ 119-3. Definitions.**

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

**JUNK CAR OR TRUCK** — One not capable of being used as such in its existing condition by reason of being damaged or dismantled or failing to contain functioning parts necessary for operation.

#### **§ 119-4. Violations and penalties.**

The penalty shall be three hundred dollars (\$300.) for each day a violation continues to exist.

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## Chapter 122

### WETLANDS

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|---|---|
| § 122-1. Purpose.                                     | § 122-10. Coordination with other boards.               |
| § 122-2. Prohibited acts.                             | § 122-11. Powers and duties of Conservation Commission. |
| § 122-3. Exceptions to permit requirement.            | § 122-12. Rules and regulations.                        |
| § 122-4. Delineation of boundaries.                   | § 122-13. Definitions.                                  |
| § 122-5. Requests for determination of applicability. | § 122-14. Security bond; easements.                     |
| § 122-6. Application.                                 | § 122-15. Enforcement.                                  |
| § 122-7. Fee.   | § 122-16. Violations and penalties.                     |
| § 122-8. Notice of intent.                            | § 122-17. Burden of proof.                              |
| § 122-9. Public notice and hearing.                   | § 122-18. Statutory authority.                          |

**[HISTORY: Adopted 4-27-1990 ATM, Art. 32. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Zoning — See Ch. 125.  
Building standards — See Ch. 152.

Flood hazard areas — See Ch. 157.  
Subdivision of land — See Ch. 194.

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#### § 122-1. Purpose.

The purpose of this chapter is to protect the wetlands, related water resources and adjoining land areas of the Town of Sunderland by prior review and control of activities deemed by the Conservation Commission likely to have significant or cumulative effect upon wetland values, including but not limited to the following: public and private water supplies, groundwater, flood control, erosion and sedimentation control, storm damage prevention, prevention of water pollution, fisheries, wildlife, wildlife habitat, recreation and aesthetic values (collectively to be known as the “wetlands protected by this chapter”).

#### § 122-2. Prohibited acts.

Except as provided by this chapter or permitted by the Sunderland Conservation Commission, no person shall remove, fill, dredge, alter or build upon or within one hundred (100) feet of the following resource areas: any freshwater wetland, riverine wetland, marsh, wet meadow, bog or swamp, any bank or beach, any lake, river, pond or stream, whether intermittent or continuous, natural or man-made, any land under aforesaid waters, any land subject to flooding or inundation by surface or ground water, storm flowage and isolated wetlands, including kettle holes and seasonal wetlands.

**§ 122-3. Exceptions to permit requirement.**

- A. The application and permit required by this chapter shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging [more than fifty percent (50%) of structure area], an existing or lawfully located structure or facility used in the service of the public to provide electric, gas or water, telephone, telegraph or other telecommunication services, town-maintained drainage ditches, sanitary sewers and storm sewers, provided that the structure or facility is not substantially changed or enlarged, provided that written notice has been given to the Commission at least forty-eight (48) hours prior to commencement of work and provided that the work conforms to performance standards in regulations adopted by the Commission.
- B. The application and permits required by this chapter shall not apply to emergency projects necessary for the protection of the health or 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 twenty-four (24) hours after commencement, provided that the Conservation Commission or its agent certified the work as an emergency project, provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency and provided that within twenty-one (21) days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this chapter. Upon failure to meet these 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.
- C. The application and permit required by this chapter shall not be required for work performed for the normal maintenance or improvement of lands in agricultural use, forestry done under an approved DEM forest cutting practices plan or normal lawn and yard work done to maintain existing developed lots.

**§ 122-4. Delineation of boundaries.**

The delineation of wetland boundaries must be done by a person approved by the Conservation Commission as a competent wetlands biologist, wetlands scientist or other qualified person.

**§ 122-5. Requests for determination of applicability.**

- A. Any person desiring to know whether a proposed activity or an area is subject to this chapter may request, in writing, a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission. When the Commission determines that the activity proposed in an application represents only a portion of a plan or project, it may require information describing the entire project and its potential impact.

- B. The Commission, in an appropriate case, may accept as the request under this chapter the request for determination of applicability filed under the Wetlands Protection Act, MGL c. 131, § 40.

**§ 122-6. Application.**

- A. Written application shall be filed with the Commission to perform activities regulated by this chapter affecting resource areas protected by this chapter. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and the effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this chapter.
- B. The Commission, in an appropriate case, may accept as the application and plans under this chapter the notice of intent and plans filed under the Wetlands Protection Act, MGL c. 131, § 40.

**§ 122-7. Fee.**

At the time of an application request, the applicant shall pay a filing fee specified in the regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, MGL c. 131, § 40. In addition, the Commission is authorized to require the applicant to pay the reasonable costs and expenses borne by the Commission for specific expert engineering and consultant services deemed necessary by the Commission to review the application. Said payment can be required at any point in the deliberations prior to a final decision rendered. Said services may include but are not limited to wetland survey and delineation, hydrogeologic and drainage analysis, wildlife evaluation and environmental/land use law. The terms and conditions under which an expert engineer or consultant may be hired at the applicant's expense shall be defined in the regulations adopted pursuant to this chapter. The Commission may waive the filing fee and costs and expenses for an application of request filed by a government agency and may waive the filing fee for a request for determination filed by a person having no financial connection with the property which is the subject of the request.

**§ 122-8. Notice of intent.**

Notices of intent under this chapter must include evidence that the wetland boundaries were delineated as required above.

**§ 122-9. Public notice and hearing.**

- A. An application or a request for determination shall be hand delivered or sent by certified mail to the Commission. The applicant shall notify all abutters according to the most recent records of the Assessors, including those across a traveled way or body of water. The notice to abutters shall state where the request or application, including any accompanying documents, may be examined or obtained. Proof of notification and a copy of a certified abutters list shall be supplied to the Commission within forty-eight (48) hours of said

notification. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owners as well as to the person making the request.

- B. The Commission shall conduct a public hearing on any application or request for determination, with written notice given at the expense of the applicant, five (5) working days prior to the hearing, in a newspaper of general circulation in the Town of Sunderland. The Commission, in an appropriate case, may combine its hearing under this chapter with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40.
- C. The Commission shall commence the public hearing within twenty-one (21) days from receipt of a completed application or request for determination, unless the applicant extends the twenty-one-day time period by a signed written waiver.
- D. The Commission shall have the authority to continue the hearing to a certain date announced at the hearing or to an unspecified date, for reasons stated at the hearing, which may include the receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the Commission in its discretion, or comments and recommendations of boards and officials listed below. If a date for continuation is not specified, the hearing shall reconvene within twenty-one (21) days after the submission of a specified piece of information or the occurrence of a specified action. The date, time and place of said continued hearing shall be published in a newspaper of general circulation in the Town of Sunderland five (5) working days prior to the continuation, at the expense of the applicant, and written notice shall be sent to any person who so requests in writing.
- E. The Commission shall issue its permit or determination, in writing, within twenty-one (21) days of the close of the public hearing thereon.

#### **§ 122-10. Coordination with other boards.**

Any person filing a permit application or a request for determination with the Commission shall provide written notice thereof at the same time, by certified mail or hand delivery, to the Board of Selectmen, Planning Board, Zoning Board of Appeals, Board of Health, Highway Superintendent and Building Commissioner. The Commission shall not take final action until to file written comments and recommendations with the Commission, such boards and officials have had fourteen (14) days from receipt of notice which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations and to respond to them at a hearing of the Commission, prior to final action.

#### **§ 122-11. Powers and duties of Conservation Commission.**

- A. The Commission shall have the authority, after a public hearing, to determine whether a specific parcel of land contains or does not contain resource areas protected under this chapter. If the Commission finds that no such resource areas are present, it shall issue a negative determination.

- B. If the Commission, after a public hearing on the permit application, determines that the activities which are the subject of the application are likely to have a significant or cumulative detrimental effect upon the wetland values protected by this chapter, the Commission, within twenty-one (21) days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.
- C. The Commission is empowered to deny a permit for failure to meet the requirements of this chapter, for failure to submit necessary information and plans requested by the Commission, for failure to meet the design specification, performance standards and other requirements and regulations of the Commission, for failure to avoid or prevent significant or cumulative detrimental effects upon the wetland values protected by this chapter and where no conditions are adequate to protect those values.
- D. A permit shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one-year period.
- E. For good cause, the Commission may revoke or amend a permit issued under this chapter after public notice and public hearing and notice to the holder of the permit.
- F. The Commission, in an appropriate case, may combine the permit or other action on an application issued under this chapter with the order of conditions or other action issued or taken under the Wetlands Protection Act, MGL c. 131, § 40.

#### § 122-12. Rules and regulations.

- A. After public notice and public hearing, the Commission shall promulgate rules and regulations to accomplish the purposes of this chapter. These regulations shall be consistent with the terms of this chapter. The Commission may amend the rules and regulations after public notice and public hearing.
- B. 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 chapter.
- C. Unless otherwise stated in this chapter or in the rules and regulations promulgated under this chapter, the definitions, procedures and performance standards of the Wetlands Protection Act, MGL c. 131, § 40, and associated regulations, 310 CMR 10.00, as promulgated April 1983, shall apply.

#### § 122-13. Definitions.

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

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

- A. Removal, excavation or dredging of soil, sand, gravel, clay, minerals or aggregate materials of any kind.
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood-retention characteristics.
- C. Drainage or other disturbance of water level or water table.
- D. Dumping, discharging or filling with any material which may degrade water quality.
- E. Placing of fill or removal of material which would alter elevation.
- F. Driving of piles or erection or repair of buildings or structures of any kind.
- G. Placing of obstructions or objects in water.
- H. Destruction of plant life, including cutting of trees.
- I. Changing water temperature, biochemical oxygen demand or other physical, chemical or biological characteristics of surface or ground water.
- J. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.

EXISTING DEVELOPED LOT — Any real estate with a human-made structure used or intended for human use.

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

**§ 122-14. Security bond; easements.**

- A. As part of a permit issued under this chapter, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured, wholly or in part, by a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission.
- B. In addition or in the alternative, the Commission may accept as security a conservation restriction easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality and observed before any lot may be conveyed other than by mortgage deed.



**§ 122-15. Enforcement.**

- A. The Commission and its agents, officers and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties under this chapter and may make or cause to be made such examinations, surveys or samplings as the Commission deems necessary.
- B. The Commission shall have the authority to enforce this chapter, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.
- C. Upon request of the Commission, the Selectboard and the Town Counsel will take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
- D. Municipal boards and officers, including any police officer or other officer having police powers, shall have the authority to assist the Commission in enforcement.

**§ 122-16. Violations and penalties.**

Any person who violates any provision of this chapter, regulations thereunder or permits issued thereunder shall be punished by a fine of not more than three hundred dollars (\$300.) Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the chapter, regulations or permit violated shall constitute a separate offense. This fine may be in addition to any levied under the Wetlands Protection Act, MGL c. 131, § 40.

**§ 122-17. 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 application will not have any significant or cumulative detrimental effect upon the wetland values protected by this chapter. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

**§ 122-18. Statutory authority.**

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

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## **DIVISION 2**

# **SELECTMEN REGULATIONS**

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## **Chapter 129**

### **DESIGNER SELECTION PROCESS**

**§ 129-1. Definitions.**

**§ 129-2. Selecting authority.**

**§ 129-3. Applicable projects.**

**§ 129-4. Selection procedures.**

**§ 129-5. Contract negotiations.**

**§ 129-6. Amendments to rules and regulations.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Sunderland 8-29-1988. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Permanent Building Committee — See Ch. 14, Art. I.  
Zoning — See Ch. 125.

Building standards — See Ch. 152.  
Subdivision of land — See Ch. 194.

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#### **§ 129-1. Definitions.**

All words defined in MGL c. 7, §§ 38A ½ through 38O, and used in these rules and regulations shall have the meanings set forth therein unless the context in which they are used clearly requires a different meaning or a different definition is prescribed in the text of these rules and regulations.

#### **§ 129-2. Selecting authority.**

The Board of Selectmen shall have the authority to select a designer for any project, subject to the provisions of MGL c. 7, §§ 38A ½ through 38O, other than a project for which funds have been appropriated for the use of the School Committee. The School Committee shall make the selection in the latter case.

#### **§ 129-3. Applicable projects.**

Every contract for design services for any building construction, reconstruction, alteration, remodeling or repair estimated to exceed ten thousand dollars (\$10,000.) by an agency, board, commission, committee, authority or department of the town, other than a housing authority, shall be awarded only after compliance with the selection procedure set forth in these rules and regulations.

#### **§ 129-4. Selection procedures.**

The Board of Selectmen or School Committee intending to contract for design services shall:

- A. Designate the Permanent Building Committee as the Design Review Committee (DRC) to select finalists for recommendation to the Board of Selectmen or School Committee.

B. Prepare or cause to be prepared the following:

- (1) Descriptions of the services required in detail, specifying the nature of the project and specific design services required, including but not limited to feasibility studies; structural analyses; master plans; surveys; soil tests; cost estimates; and preparation of drawings, plans or specifications, including but not limited to schematic drawings, preliminary plans and specifications, or other documents related to the administration of the construction contract, including supervision or administration of a construction contract and construction management and scheduling.
- (2) Specifications of qualifications to the designer, including but not limited to the following items:
  - (a) Architectural or engineering specialty or specialties desired.
  - (b) The extent and nature of experience desired.
  - (c) The size of the staff to be available.
  - (d) Other consultant services to be provided by the designer.
  - (e) The capability for project supervision and/or inspection.
  - (f) Financial stability and reliability.
  - (g) Current workload.
- (3) An advertisement to be published at least two weeks prior to the deadline for applications for the contract in a local newspaper of general circulation and an advertisement in the Central Register at least two (2) weeks before the deadline for applications for the contract.
- (4) An application form for use by interested designers. This form may be as suggested by the Division of Capital Planning and Operations (DCPO) or a form proposed specifically for use by the Town of Sunderland which shall include, at a minimum, the same information required by the DCPO form. In the event that a special form is prepared, it shall be approved by Town Counsel and the Board of Selectmen before use.
- (5) A statement of criteria for selection of the designer, which may include but not be limited to the following:
  - (a) Prior experience on similar projects.
  - (b) Past performance on public and private projects.
  - (c) Financial stability.
  - (d) Experience and qualifications of specific participants and staff to be assigned to the project if the contract were awarded.
  - (e) Special knowledge, training or expertise which may be required or offered.
  - (f) Identity and qualifications of any consultants or engineering specialists who will work with the designer on the project, such as but not limited to electrical and/or

mechanical and/or structural engineers, landscape architects, equipment specification writers or energy conservation specialists.

- (g) Willingness to inspect the project.
  - (h) Workload and date for completion of design.
  - (i) Other criteria relevant to the specific project.
- (6) A statement of basis for the designer's fee. Determine whether the fee is to be fixed in advance by the awarding authority prior to the selection process or is to be negotiated.
- (7) A statement of procedures to be followed in the screening of applicants.
- (a) The Board of Selectmen, School Committee or the Permanent Building Committee shall select the three finalists for consideration using the criteria in § 129-4B(5) of these rules and regulations.
  - (b) The Board of Selectmen, School Committee and/or the Permanent Building Committee shall interview the three finalists.
  - (c) The Board of Selectmen, School Committee and/or the Permanent Building Committee shall give each finalist the opportunity to submit such additional information as the awarding authority may require.
  - (d) The Board of Selectmen or the School Committee shall select the designer to whom a contract will be offered.

**§ 129-5. Contract negotiations.**

- A. The Board of Selectmen or the School Committee shall cause to be published in the Central Register the names and rankings of the designer firms selected for contract negotiations.
- B. The Board of Selectmen or School Committee shall prepare and make public a written statement of the reasons supporting the selection of the designer. The vote of the Board or Committee shall incorporate the statement of reasons and be recorded in the official minutes of said Board or Committee.
- C. The awarding authority shall advise the Town Counsel of its selection of a designer and the fee as a total dollar amount. The Town Counsel shall approve the contract in form, complying with applicable provisions of law and these rules and regulations which incorporate the agreement negotiated with the designer selected.
- D. The awarding authority shall publish in the Central Register the name of the designer or designer firm to whom a contract is awarded on the form prescribed by the Secretary of State.

**§ 129-6. Amendments to rules and regulations.**

These rules and regulations may be amended from time to time at any duly posted meeting of the Board of Selectmen by majority vote of the Board of Selectmen.<sup>1</sup>

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<sup>1</sup> Editor's Note: Sample application forms, which immediately followed the end of these rules and regulations, are on file in the town offices.



## Chapter 130

### DOGS

#### ARTICLE I Animal Control

§ 130-1. Purpose.

§ 130-2. Administration.

§ 130-3. License requirements; fees.

§ 130-4. Nonconforming dogs.

§ 130-5. Complaints; confinement;  
release or destruction.

§ 130-6. Violations and penalties.

#### ARTICLE II Policies and Violation Fees

§ 130-7. Dog bylaw policies and violation  
fees.

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

#### GENERAL REFERENCES

Peace and good order — See Ch. 89.

Nuisances — See Ch. 166.

#### ARTICLE I Animal Control

[Adopted 4-28-1994 ATM, Art. 28<sup>1</sup> ; amended in its entirety 4-25-2014 ATM, Art. 14]

§ 130-1. Purpose.

The town requires that all dog owners keep their dogs under control at all time for the purpose of:

- A. Protecting people and animals from injury.
- B. Protecting property from damage.
- C. Preventing dog-related nuisances.

Under control shall mean the dog is within the real property limits of its owner or keeper or on the premises of another person with the knowledge and express permission of such person, or secured by a leash, lead, or under the direct control of the owner or keeper.

1. Editor's Note: This article also repealed former Ch. 130, Dogs, enacted by the Board of Selectmen as follows: Art. I, Licensing, adopted 5-28-1974; and Art. II, Restraint; Fines, adopted 3-2-1992.

**§ 130-2. Administration.**

- A. The Board of Selectmen shall annually appoint an Animal Control Officer who shall be responsible for the enforcement of this bylaw and the General Laws relating to the regulation of animals.
- B. For purposes of this bylaw and Massachusetts General Laws, Chapter 140, section 157, the Board of Selectmen shall be the Hearing Authority.

**§ 130-3. License requirements; fees.**

- A. The registering, numbering, description and licensing, pursuant to the provisions of Chapter 140 of the Massachusetts General Laws of all dogs and all kennels in the Town of Sunderland shall be conducted in the office of the Town Clerk.
- B. The licensing fees for dogs and kennels shall be as follows:  
  
Dogs: Intact \$15.00; Spayed/Neutered \$10.00  
Kennels: per dog as set forth above.
- C. Whoever violates Sections 137, 137A, 137B, or 138 of Chapter 140 of the General Laws and/or the provisions of this section shall be assessed a penalty of \$50 pursuant of MGL c. 140, § 141.
- D. The fees collected shall be deposited into the general fund.

**§ 130-4. Nonconforming dogs.**

Any owner or keeper who allows his/her dog to do any of the following is in violation of this chapter:

- A. Run at large or go beyond the confines of his or her property unless the animal is held firmly on a leash.
- B. Bite, bark, howl or in any other manner disturb the peace or quiet of any neighborhood or endanger the safety of any person.
- C. Run at large or unmuzzled in violation of any order of the Board of Selectmen or of the Dog Officer.
- D. Worry, kill, maim or otherwise injure another's fowl, livestock or domestic animal.
- E. Chase another's vehicle, person or bicycle on any way open to public travel.
- F. Be unlicensed or untagged in violation of state law.
- G. Failure to remove waste.

- (1) Each person who owns, keeps or controls a dog with the Town shall remove and dispose of any feces left by such dog on any sidewalk, street, park or other public areas or on any private property which is not owned or occupied by such person.
- (2) No person who owns, keeps or controls a dog within the Town shall permit such dog to be on any sidewalk, street, park or other public area unless such dog is accompanied by a person carrying a device, which is suitable for picking up and containing feces unexposed to such person and to the general public.
- (3) For the purposes of Subsection G(1), feces may only be disposed of at a place suitable and regularly reserved for the disposal of human feces or otherwise designated as appropriate by the Board of Health.
- (4) Subsection G(1) through (3), inclusive, shall not apply to a dog accompanying any handicapped person, who due to a handicap, is physically unable to comply with the requirements of such paragraphs.

**§ 130-5. Complaints; confinement; release or destruction.**

- A. Any person may complain to the Dog Officer of a violation of the preceding sections. On receipt of such a complaint, the Officer shall investigate and may order the owner or keeper of the dog to restrain or muzzle the dog as the Officer deems necessary.
- B. The Dog Officer may pick up nonconforming dogs as described in § 130-3. If by license or other means the owner of a dog can be identified, the Dog Officer may return the dog to the owner and issue a citation. Or he/she may confine the dog to the Town Pound for not more than ten (10) days.
- C. If a veterinarian certifies that a dog is seriously injured or ill, the dog may be euthanized before the ten (10) days is over.
- D. No dog shall be released until is licensed and all kennel fees and penalties are paid.
- E. Any dog not claimed after ten (10) days may become the property of a local nonprofit dog protection organization to be placed for adoption or euthanized.
- F. Notwithstanding the above, any person may make a written complaint to the selectmen that any dog owned or kept within the Town is a Nuisance Dog or a Dangerous Dog, as those terms are defined in M.G.L. Chapter 140, Section 157. The Board of Selectmen shall investigate or cause to be investigated such complaint, including an examination under oath of the complainant at a public hearing in the municipality to determine whether the dog is a Nuisance Dog or a Dangerous Dog, and shall make such order concerning the restraint or disposal of such dog as provided in M.G.L. c.140, Section 157. Violations of such orders shall be subject to the enforcement provisions of M.G.L. Chapter 140, Section 157 and 157A, which, upon conviction, may include: for a first offense, a fine of not more than \$500 or imprisonment for not more than 60 days in a jail or house of correction, or both, and for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment for not more than 90 days in a jail or house of correction.

**§ 130-6. Violations and penalties.**

Penalties for violation of any section of this chapter shall be twenty-five dollars (\$25.00) for the first offense and forty dollars (\$40.00) for each subsequent offense in the calendar year. Each day a violation exists shall constitute a separate violation. This bylaw may be enforced through any means available in law or in equity, including anon-criminal disposition in accordance with G.L. c.40, § 21D and § 1-1 of the Code of the Town Sunderland.

**ARTICLE II****Policies and Violation Fees**

**[Adopted by the Board of Selectmen 7-26-2004; 4-25-2014 ATM, Art. 14]**

**§ 130-7. Dog bylaw policies and violation fees. [Amended 4-27-2012 ATM, Art. 23]**

The Board of Selectmen is hereby authorized to adopt rules or regulations concerning the keeping and conduct of dogs, including the imposition of fines for violations thereof, which fines shall be determined by the Board of Selectmen annually and shall be kept on file in the office of the Town Clerk.

## **Chapter 133**

### **FEES**

**[Various fees which are promulgated from time to time by the Board of Selectmen, including business license fees and sewer use fees, are on file in the office of the Town Clerk.]**



## **Chapter 140**

### **PLUMBING**

**[Plumbing fees are set from time to time by the Board of Selectmen and are on file in the office of the Town Clerk.]**

#### **GENERAL REFERENCES**

**Sewers — See Ch. 144.**

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## Chapter 144

### SEWERS

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|---|--|
| § 144-1. Definitions and word usage.                | § 144-13. Prohibited discharge.  |
| § 144-2. Basis for testing.                         | § 144-14. Action by Board of Selectmen.                                  |
| § 144-3. Permits required.                          | § 144-15. Interceptors to be provided.                                   |
| § 144-4. Classes of permits; application.           | § 144-16. Preliminary treatment or flow-equalizing facilities.           |
| § 144-5. Installation and repair of building sewer. | § 144-17. Control manhole.   |
| § 144-6. Entrance fee.                              | § 144-18. Sampling of wastes.  |
| § 144-7. Material and installation requirements.    | § 144-19. Construal of provisions.                                       |
| § 144-8. Building sewers to be separate.            | § 144-20. Discharge from septic tanks; permits for septic haulers; fees. |
| § 144-9. Use of old building sewers.                | § 144-21. Damage of sewage works.  |
| § 144-10. Connection to be below basement level.    | § 144-22. Entrance on private property.                                  |
| § 144-11. Prohibited connections.                   | § 144-23. Indemnification of company.                                    |
| § 144-12. Excavations to be guarded; restoration.   | § 144-24. Entrance on easements.   |
|   | § 144-25. Violations and penalties.                                      |

[HISTORY: Adopted by the Board of Selectmen of the Town of Sunderland 7-28-1975. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building Code — See Ch. 46.

Excavations in streets and sidewalks — See Ch. 106.

Plumbing — See Ch. 140.

Building standards — See Ch. 152.

Subsurface sewage disposal systems — See Ch. 172.

#### § 144-1. Definitions and word usage.

- A. Terms defined. Unless specifically indicated in these rules and regulations, the meanings of terms used shall be as follows:

BOARD OF SELECTMEN — The duly elected Board of Selectmen of the Town of Sunderland, or its authorized deputy, agent or representative.

BOD (denoting "biochemical oxygen demand") — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C.), expressed in milligrams per liter.

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of

the building and conveys it to the building sewer, beginning five (5) feet [one and five-tenths (1.5) meters] outside of the inner face of the building wall.

**BUILDING SEWER** — The extension from the building drain to the public sewer or other place of disposal.

**COMBINED SEWER** — A sewer receiving both surface runoff and sewage.

**EXCESSIVE** — Amounts or concentration of a constituent of wastewater which, in the judgment of the Board of Selectmen:

- (1) Will cause damage to any facility;
- (2) Will be harmful to a wastewater treatment process;
- (3) Cannot be removed in the treatment works to the degree required in the limiting stream classification standards of the Connecticut River and/or its tributaries;
- (4) Can otherwise endanger life or property; or
- (5) Can constitute any nuisance.

**GARBAGE** — Solid wastes from the domestic and commercial preparation, cooking and dispensing of food from the handling, storage and sale of produce.

**INDUSTRIAL WASTES** — The liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.

**NATURAL OUTLET** — Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**OWNER** — The person legally and lawfully possessing the land across which a particular building sewer lies or will lie.

**PERSON** — Any individual, firm, company, association, society, corporation or group.

**pH** — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**PLANT OPERATOR** — The duly appointed operator and administrator of the Sunderland Wastewater Treatment Plant or Plants, working under the direct supervision of the Board of Selectmen or its authorized deputy, agent or representative.

**PROPERLY SHREDDED GARBAGE** — The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch [one and twenty-seven hundredths (1.27) centimeters] in any dimension.

**PUBLIC SEWER** — A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

**SANITARY SEWER** — A sewer which carries sewage and to which storm-, surface and ground waters are not intentionally admitted.

**SEWAGE** — A combination of the water-carried wastes from the residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.

**SEWAGE TREATMENT PLANT** — Any arrangement of devices and structures used for sewage treatment.

**SEWAGE WORKS** — All facilities for collecting, pumping, treating and disposing of sewage.

**SEWER** — A pipe or conduit for carrying sewage.

**SEWER MAIN** — The principal pipe artery to which building sewers may be connected.

**SLUG** — Any discharge of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds, for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four-hour concentration of flows during normal operations.

**STORM DRAIN** (sometimes termed "storm sewer") — A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

**SUMP PUMP** — A pump used to remove water that has accumulated in a sump pit.  
[Added 4-28-2008 ATM, Art. 28]

**SUSPENDED SOLIDS** — Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by laboratory filtering.

**WATERCOURSE** — A channel in which a flow of water occurs, either continuously or intermittently.

B. Word usage. "Shall" is mandatory; "may" is permissive.

#### **§ 144-2. Basis for testing.**

The basis for all laboratory testing required hereunder and the definitions of all laboratory or chemical terms used herein shall be the current edition of Standard Methods for the Examination of Water and Wastewater, as published by the American Public Health Association.

**§ 144-3. Permits required. <sup>1</sup>**

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Board of Selectmen.
- B. Any person proposing new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall file an application for such discharge.

**§ 144-4. Classes of permits; application.**

There shall be two (2) classes of building sewer permits: for residential and commercial service and for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the Board of Selectmen. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Board of Selectmen.

**§ 144-5. Installation and repair of building sewer. [Amended 4-27-2012 ATM, Art. 22]**

- A. The property owner shall construct the particular building sewer from the street line to the building drain. The property owner shall also construct the particular sewer from the common sewer to the boundary of the way. This construction shall be in accordance with the requirements of the Board of Selectmen and as herein noted. No portion of this construction shall be backfilled or otherwise covered until inspected by an authorized agent of the Board of Selectmen and written approval given thereof.
- B. For work being carried out within the public right-of-way for laying, altering or repairing of a particular sewer, a permit from the Board of Selectmen is required pursuant to Section 8 of Chapter 83 of the General Laws, and the Board of Selectmen or its authorized agent shall have the right to specify the methods and materials used for backfilling this construction and the methods and materials used for final surface paving, where required, and a fee may be charged to cover the Town's costs of permitting and inspecting the work.
- C. All costs and expenses for the installation or repair of the building sewer shall be borne by the applicant or property owner. The town shall be indemnified from any loss or damage that may be directly or indirectly occasioned by the installation or repair of the building sewer. The owner's contractor shall be required to carry proper and efficient insurance coverage, as determined by the Board of Selectmen, to cover any and all claims incurred by the contractor when carrying out this work within a public right-of-way.

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1. Editor's Note: The Board of Selectmen from time to time sets fees for sewer use. These fees are on file in the office of the Town Clerk.

**§ 144-6. Entrance fee.**

The Board of Selectmen will charge an entrance fee for the connection of the building sewer to the common sewer. The entrance fee shall be as follows:

- A. For a single-family dwelling unit: seven hundred dollars (\$700.) [Amended 11-1993; 4-27-2001 ATM, Art. 30]

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- B. For each additional dwelling unit: seven hundred dollars (\$700.) [Amended 11-1993; 4-27-2001 ATM, Art. 30]
- C. For commercial and industrial, total area less than or equal to two thousand (2,000) square feet: seven hundred dollars (\$700.) [Amended 11-1993; 4-27-2001 ATM, Art. 30]
- D. For commercial and industrial, total area greater than two thousand (2,000) square feet: to be determined by the Board of Selectmen. [NOTE: The Board of Selectmen will determine the entrance fee for industrial and commercial buildings greater than two thousand (2,000) square feet in area from a consideration of the building size and the volume and strength of anticipated domestic and industrial waste.]

**§ 144-7. Material and installation requirements.**

The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the State Plumbing Code, as applicable, and the requirements of the Board of Selectmen. The following are the basic requirements:

- A. Pipe shall be a minimum of four (4) inches.
- B. Pipe material shall be cast iron, asbestos-cement, burned clay or similar material and subject to the approval of the Board of Selectmen; all materials shall be of sufficient strength for the particular installation.
- C. Pipe joints shall be either factory-made, compression-type joints or shall be hot-poured, using lead or a suitable bituminous jointing compound.
- D. All building sewers shall be laid straight to line and grade with a minimum pitch of one-fourth (1/4) inch per foot, using clay or cast iron pipe and one-eighth (1/8) inch per foot using asbestos-cement pipe.
- E. All building sewers shall be carefully bedded in sand and backfilled to prevent damage.
- F. All pipe, joints and connections shall be watertight and gastight.
- G. The applicant for the building sewer permit shall notify the Board of Selectmen when the building sewer is ready for inspection. The inspection will be made by a representative of the Board of Selectmen, and written approval will be given if the installation is accepted. The building sewer shall not be covered or backfilled until this written approval is given.

**§ 144-8. Building sewers to be separate.**

A separate and independent building sewer shall be provided for every building, except that, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

**§ 144-9. Use of old building sewers.**

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Board of Selectmen, to meet all requirements of these rules and regulations.

**§ 144-10. Connection to be below basement level.**

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such a building drain shall be lifted by an approved means and discharged to the building sewer.

**§ 144-11. Prohibited connections. [Amended 4-28-2008 ATM, Art. 29]**

No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected, directly or indirectly to a public sanitary sewer. Sump or cellar pumps used for the control or relief of groundwater and/or drainage shall be hard piped to the ground surface outside the building a minimum of five (5) feet from the inner face of the building wall, and shall not be discharged to the building sewer, either directly or indirectly.

**§ 144-12. Excavations to be guarded; restoration.**

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Board of Selectmen.

**§ 144-13. Prohibited discharge.**

- A. General prohibition. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.
- B. Restrictions. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers to a natural outlet approved by the Board of Selectmen. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Board of Selectmen, to a storm sewer, combined sewer or natural outlet.
- C. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - (1) Any gasoline, benzene, naphtha, fuel oils or other flammable or explosive liquid, solid or gas.



- (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer or by one (1) part per million as CN after dilution by the minimum flow in the common sewer.
  - (3) Any waters or wastes having a pH lower than five point five (5.5) nor higher than nine point five (9.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
  - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works, such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders, without prior approval of the Board of Selectmen.
- D. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the Board of Selectmen, that such wastes can harm either the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property or constitute a nuisance. In forming its opinion as to the acceptability of these wastes, the Board of Selectmen will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances which shall not be discharged to the common sewers without prior approval of the Board of Selectmen are:
- (1) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F.) at the point of discharge.
  - (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two and one hundred fifty degrees Fahrenheit (32° and 150° F.) [zero and sixty-five degrees Celsius (0° and 65° C.)].
  - (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower [seventy-six hundredths (0.76) horsepower metric] or greater shall be subject to the review and approval of the Board of Selectmen.
  - (4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.

- (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Board of Selectmen for such materials.
- (6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Board of Selectmen as necessary, after treatment of the composite sewage, to meet the requirements of the State Division of Water Pollution Control.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Board of Selectmen in compliance with applicable state or federal regulations.
- (8) Any waters or wastes having a pH less than five point five (5.5) nor more than nine point five (9.5) in the building sewer.
- (9) Materials which exert or cause:
  - (a) Unusual concentrations of inert suspended solids.
  - (b) Excessive discoloration.
  - (c) Unusual biochemical oxygen demand, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - (d) Unusual volume of flow or concentration of wastes constituting slugs, as defined herein.
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**§ 144-14. Action by Board of Selectmen.**

- A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 144-13D of this chapter and which, in the judgment of the Board of Selectmen, may have a deleterious effect upon the sewage works, process, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Board of Selectmen may:
- (1) Reject the wastes;
  - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
  - (3) Require control over the quantities and rates of discharge; and/or

- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.
- B. If the Board of Selectmen permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Board of Selectmen and subject to the requirements of all applicable codes, ordinances and laws.
- C. Industries discharging to the public sewers shall perform such flow monitoring of their discharges as the Board of Selectmen may require, including installation, use and maintenance of, keeping records and reporting the results to the Board of Selectmen. The design and installation of these facilities shall be subject to the review and approval of the Board of Selectmen.

**§ 144-15. Interceptors to be provided.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the Board of Selectmen, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Board of Selectmen and shall be located so as to be readily and easily accessible for cleaning and inspection.

**§ 144-16. Preliminary treatment or flow-equalizing facilities.**

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**§ 144-17. Control manhole.**

When required by the Board of Selectmen, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Board of Selectmen. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

**§ 144-18. Sampling of wastes.**

- A. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered the nearest

downstream manhole in the public sewer to the point at which the building sewer is connected.

- B. Sampling shall be carried out by customarily accepted methods as determined by the plant operator to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, biochemical oxygen demand and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.)

**§ 144-19. Construal of provisions.**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor by the industrial concern.

**§ 144-20. Discharge from septic tanks; permits for septage haulers; fees.**

- A. No septic tank contents shall be discharged into the public sewer system except at the sewage treatment plant location so designated by the plant operator.
- B. Only septic tank contents from Sunderland shall be allowed. The Board of Selectmen reserves the right to cancel, suspend or place a limit on any permit issued for the above purpose because of the discharge of out-of-town septic tank contents into the public sewer or for the purpose of controlling the solids input to the sewage treatment plant.
- C. Septage haulers shall obtain permits for the discharge of septic tank contents at the office of the Board of Selectmen. A fee of one dollar (\$1.) per year will be charged for each permit issued. Each permit shall be valid for one (1) year, at which time it must be renewed by the applicant.

**§ 144-21. Damage of sewage works.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**§ 144-22. Entrance on private property.**

The Board of Selectmen and other duly authorized employees and representatives of the town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of these rules and regulations. The Board of Selectmen and its representatives

shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or any other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

**§ 144-23. Indemnification of company.**

While performing the necessary work on private properties referred to in § 144-22 above, the Board of Selectmen or duly authorized employees and representatives of the town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the town employees, and the town shall hereby indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage assessed against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain in safe conditions as required in § 144-17.

**§ 144-24. Entrance on easements.**

The Board of Selectmen and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**§ 144-25. Violations and penalties.**

- A. Any person found to be violating any provisions of this chapter, except § 144-21, shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in Subsection A above shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in the amount not exceeding twenty dollars (\$20.) for such violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- C. Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss or damage occasioned the town by reason of such violation.



## Chapter 148

### VEHICLES AND TRAFFIC

#### ARTICLE I Definitions

§ 148-1. Terms defined.

#### ARTICLE II Authority and Duties of Police

- § 148-2. Direction of traffic.  
§ 148-3. Temporary closing of streets.  
§ 148-4. Temporary prohibition of parking.  
§ 148-5. Exceptions.

#### ARTICLE III Traffic Signs, Signals, Markings and Zones

§ 148-6. Interference prohibited.

- § 148-7. Disobedience prohibited.  
§ 148-8. Operation of vehicles.

#### ARTICLE IV Parking

- § 148-9. General prohibitions.  
§ 148-10. Parking prohibited on certain streets.  
§ 148-11. Winter parking ban.

#### ARTICLE V Violations and Penalties

- § 148-12. (Reserved)  
§ 148-13. Violations and penalties.

[HISTORY: Adopted by the Board of Selectmen of the Town of Sunderland 5-6-1971. Amendments noted where applicable.]

#### GENERAL REFERENCES

Streets and sidewalks — See Ch. 106.  
Unregistered vehicles — See Ch. 119.

Nuisances — See Ch. 166.

#### ARTICLE I Definitions

§ 148-1. Terms defined.

For the purpose of these rules and orders, the words and phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning:

**EMERGENCY VEHICLES** — Vehicles of the Fire Department, police vehicles, ambulances and emergency vehicles of federal, state and municipal departments or public service corporations, when the latter are responding to an emergency in relation to the Police or Fire Departments.

**LANE** — A longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

**OFFICER** — Any officer, constable or special officer, provided that he has his badge of office displayed over his left breast and upon his outer garment.

**OFFICIAL STREET MARKING** — Any painted line, legend, marking or marker of any description painted or placed upon any way which purports to direct or regulate traffic and which has been authorized by the Board of Selectmen and which has the written approval of the Department of Public Works, Commonwealth of Massachusetts.

**OFFICIAL TRAFFIC SIGNS** — All signs, markings and devices, other than signals, not inconsistent with these rules and orders, which conform to the standards prescribed by the Department of Public Works of the Commonwealth of Massachusetts and are placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.

**PARKING** — The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading or in obedience to an officer or traffic signs or signals or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

**PERSON** — Includes any individual, firm, copartnership, association or corporation.

**ROADWAY** — That portion of a street or highway between the regularly established curblines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

**STREET or HIGHWAY** — The entire width between property lines of every way open to the use of the public for the purpose of travel.

**VEHICLE** — Every device in, upon or by which any person or property is or may be transported or drawn upon any street or highway, including bicycles when the provisions of these rules are applicable to them, except other devices moved by human power or used exclusively upon stationary rails or tracks.

## ARTICLE II Authority and Duties of Police

### § 148-2. Direction of traffic.

It shall be the duty of the police officers to enforce the provisions of these rules and orders. Police officers are hereby authorized to direct all traffic, either in person or by means of a visible or audible signal, in conformance with the provisions of these rules and orders, provided that, in the event of a fire or other emergency, to expedite traffic or safeguard pedestrians, officers of the Police or Fire Department may direct traffic as conditions may require, notwithstanding the provisions of these rules and orders.



**§ 148-3. Temporary closing of streets.**

The police may close temporarily any street or highway in an impending or existing emergency or for any lawful assemblage, demonstration or procession, provided that there is reasonable justification for the closing of such street.

**§ 148-4. Temporary prohibition of parking.**

The police may prohibit, temporarily, parking on any street or highway, or part thereof, in an impending or existing emergency or for a lawful assemblage, demonstration or procession, provided that there is reasonable justification for such prohibition. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of an officer.

**§ 148-5. Exceptions.**

The provisions of these rules and orders shall not apply to operators actually engaged in work upon a street or highway closed to travel or under construction or repair, to officers when engaged in the performance of public duties nor to drivers of emergency vehicles while operating in an emergency and in performance of public duties, when the nature of the work of any of these necessitates a departure from any part of these rules and orders. These exemptions shall not, however, protect the driver of any vehicle from the consequences of a reckless disregard of the safety of others.

**ARTICLE III****Traffic Signs, Signals, Markings and Zones****§ 148-6. Interference prohibited.**

It shall be unlawful for any person to willfully deface, injure, move, obstruct or interfere with any official traffic sign, signal or marking.

**§ 148-7. Disobedience prohibited.**

No driver of any vehicle shall disobey the instructions of any official traffic control signal, sign, marking, marker or legend, unless otherwise directed by a police officer.

**§ 148-8. Operation of vehicles.**

- A. Obedience to isolated stop signs. Every driver of a vehicle, railway car or other conveyance approaching an intersection of ways where there exists, facing him, an official sign bearing the word "stop" or a flashing red signal indication, said sign or signal having, apart from these rules and orders, the written approval of the Department of Public Works, Commonwealth of Massachusetts, and such approval being in effect, shall, before proceeding through the intersection, bring such vehicle, railway car or other conveyance to a complete stop at such point as may be clearly marked by a sign or line or, if a point is not so marked, then at the nearer line of crosswalk of said intersection. In the case of a line of

two (2) or more vehicles approaching such stop sign or flashing red signal indication, the drivers of the second and third vehicle in any group shall not be required to stop more than once before proceeding through the intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device. In accordance with the foregoing, the erection and maintenance of an isolated stop sign or signs or flashing red signals, as the case may be, are authorized so as to face:

<b>Name of Street</b>	<b>Direction</b>	<b>At Intersection of</b>
Falls Road	Southbound	Montague Road
Hadley Road	Northbound	Old Amherst Road
Hadley Road	Southwestbound	River Road
North Silver Lane	Westbound	North Main Street
Old Amherst Road	Westbound	South Main Street
Plumtree Road	Westbound	Silver Lane
Russell Road	Westbound	Hadley Road
Russell Street	Northbound	Old Amherst Road

- B. Flashing red. When a red lens is illuminated in a traffic control signal by rapid intermittent flashes and its use has been specifically authorized by the Department of Public Works, Commonwealth of Massachusetts, drivers shall stop before entering the nearer line of crosswalk of the street intersection or at a stop line, when marked, and the right to proceed shall then be governed by provisions of MGL c. 89, § 8.

#### ARTICLE IV

##### Parking

##### § 148-9. General prohibitions.

No person shall stand or park, and no person shall allow, permit or suffer any vehicle registered in his name to stand or park in any of the following places:

- A. Within an intersection.
- B. Upon any sidewalk.
- C. Upon any crosswalk.
- D. Upon the roadway in a rural or sparsely settled district.
- E. Upon a roadway where parking is permitted, unless both wheels on the right side of the vehicle are within twelve (12) inches of the curb or edge of the roadway, except upon those streets which are designated as one-way streets. On such one-way streets, vehicles shall be parked in the direction in which said vehicle is moving and with both wheels within twelve (12) inches of the curb.

- F. Upon any roadway where the parking of a vehicle will not leave a clear and unobstructed lane at least ten (10) feet wide for passing traffic.
- G. Upon any street or highway within five (5) feet of a fire hydrant.
- H. In front of any private road or driveway.
- I. Upon any street or highway within twenty (20) feet of an intersecting way, except alleys.

#### § 148-10. Parking prohibited on certain streets.<sup>1</sup>

Upon the following streets or highways, or parts thereof, parking is hereby prohibited:

Street	Location
Old Amherst Road	Northerly side from South Main Street easterly to where the sidewalk and curbing ends and road curves and goes in a southerly direction
Silver Lane [Added 3-1-1983]	Beginning at the stop sign at the intersection with Old Amherst Road southerly to Raymond Konieczny property

#### § 148-11. Winter parking ban. [Added 4-26-1996 ATM, Art. 29<sup>2</sup>; amended 4-26-2002 ATM, Art. 16]

No parking is allowed at any time on any Sunderland street from November 1 to April 1.

### ARTICLE V Violations and Penalties

#### § 148-12. (Reserved)<sup>3</sup>

#### § 148-13. Violations and penalties.

Any person convicted of a violation of any rule, regulation or order made hereunder, except as otherwise provided, shall be punished by a fine not exceeding twenty dollars (\$20.) for each offense.<sup>4</sup>

<sup>1</sup> Editor's Note: These rules and regulations also provided that this section shall be effective only during such times that official traffic signs are displayed setting forth the provisions of such section.

<sup>2</sup> Editor's Note: This article also repealed former § 148-11, All-night parking restricted.

<sup>3</sup> Editor's Note: Former § 148-12, Owner responsibility for violations, was repealed 4-26-1996 ATM, Art. 29.

<sup>4</sup> Editor's Note: Former § 148-14, Ban established, adopted 12-6-1980 to prohibit parking that would interfere with snow removal from December 1, 1982, to April 1, 1983, and which followed this section, was superseded 4-26-1996 ATM, Art. 29. See now § 148-11, Winter parking ban.

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**DIVISION 3**

**BOARD OF HEALTH  
REGULATIONS**

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## **Chapter 152**

### **BUILDING STANDARDS**

**[This chapter is reserved for rules and regulations promulgated by the Board of Health regarding building standards.]**

#### **GENERAL REFERENCES**

**Plumbing — See Ch. 140.**  
**Sewers — See Ch. 144.**

**Building in flood hazard areas — See Chs. 125 and 157.**  
**Subsurface sewage disposal systems — See Ch. 172.**

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## **Chapter 156**

### **FEES**

#### **§ 156-1. Schedule of fees.**

**[HISTORY: Adopted by the Board of Health of the Town of Sunderland 6-1-1992. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Fees — See Chs. 60 and 133.  
Dog control — See Ch. 130.  
Sewers — See Ch. 144.

Building standards — See Ch. 152.  
Subsurface sewage disposal systems — See Ch. 172.  
Wells — See Ch. 177.

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#### **§ 156-1. Schedule of fees. [Amended 4-27-2007 ATM, Art. 25]**

The Board of Health Schedule of Fees shall be posted in the office of the Board of Selectmen, the office of the Board of Health, and the office of the Town Clerk.

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## Chapter 157

### FLOOD HAZARD AREAS

**§ 157-1. Location of waste disposal systems.**

**§ 157-2. Certification by sanitary engineer.**

**[HISTORY: Adopted by the Board of Health of the Town of Sunderland 6-23-1975. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Wetlands — See Ch. 122.  
Zoning — See Ch. 125.  
Sewers — See Ch. 144.

Subsurface sewage disposal systems — See Ch. 172.  
Subdivision of land — See Ch. 194.

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**§ 157-1. Location of waste disposal systems.**

In flood hazard areas designated on the Federal Insurance Administration flood hazard maps adopted by the town, on-site waste disposal systems shall be located and designed so as to avoid impairment or contamination during flooding.

**§ 157-2. Certification by sanitary engineer.**

No water supply or sanitary sewerage system shall be approved within a flood hazard area designated on Federal Insurance Administration flood hazard maps adopted by the town unless a registered sanitary engineer certifies that new or replacement systems are designed so as to minimize or eliminate infiltration of floodwater into the systems and discharges from sanitary sewage systems into floodwaters.

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**Chapter 164**  
**(RESERVED)**

**[Former Ch. 164, Landfill, adopted by the Board of Health 8-28-1979, was repealed  
4-27-2012 ATM, Art. 12.]**

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## Chapter 165

### MANURE

#### ARTICLE I Use and Disposal of Poultry Manure

- § 165-1. Definitions.
- § 165-2. Use in cultivated fields.
- § 165-3. Use in other fields.
- § 165-4. Transportation and importation.
- § 165-5. Storing or stockpiling.
- § 165-6. Contamination of water.
- § 165-7. Applicability.
- § 165-8. Violations and penalties.

#### ARTICLE II Nonpoultry Manure

- § 165-9. Definitions.
- § 165-10. Transportation and importation.
- § 165-11. Spreading.
- § 165-12. Excessive fly breeding.
- § 165-13. Applicability.
- § 165-14. Violations and penalties.

[HISTORY: Adopted by the Board of Health of the Town of Sunderland as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Zoning performance standards — See Ch. 125.

Nuisances — See Ch. 166.

#### ARTICLE I Use and Disposal of Poultry Manure [Adopted effective 4-4-1984]

##### § 165-1. Definitions.

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

**CULTIVATED FIELDS** — Includes those fields plowed, harrowed or cultivated on a yearly basis.

**OTHER FIELDS** — Includes those fields not regularly plowed, harrowed or cultivated on a yearly basis, such as hay, alfalfa and other similar feed crops to include pasture lands.

**PERSON** — Includes an individual, partnership (limited, general or otherwise), corporation, firm or any other entity, business or otherwise.

##### § 165-2. Use in cultivated fields.

- A. No person shall spread or dump poultry manure on such fields during the period of May 15 through September 30 in each year, without first acquiring the prior written approval of the

Board of Health by filing a request with the Board of Health no less than five (5) days before the initial date of such intended spreading or dumping.

- B. Any poultry manure spread or dumped on such fields will be plowed under to a minimum depth of six (6) inches within seven (7) days. If, due to weather conditions, excessive fly breeding is apparent, plowing under of poultry manure will be accomplished within twenty-four (24) hours of receipt of notice from the Board of Health.

**§ 165-3. Use in other fields.**

- A. No person shall spread or dump poultry manure on such fields during the period of April 30 through September 30 in each year, without first acquiring the prior written approval of the Board of Health by filing a request with the Board of Health no less than five (5) days before the initial date of such intended spreading or dumping.
- B. If, due to weather conditions, excessive fly breeding is apparent, such fields will be plowed under to a minimum depth of six (6) inches within twenty-four (24) hours of receipt of notice from the Board of Health.

**§ 165-4. Transportation and importation.**

Poultry manure transported within or imported into the Town of Sunderland must be in sealed containers or vehicles which prevent escape of germs or any other offensive properties therefrom.

**§ 165-5. Storing or stockpiling.**

- A. No person shall store or stockpile poultry manure in the Town of Sunderland during the period of April 30 through September 30 in each year, without first acquiring the prior written approval of the Board of Health by filing a request for a permit to store poultry manure with the Board of Health no less than five (5) days before the initial date of such intended storage or stockpiling. The Board of Health shall then make an on-site inspection of the intended method of storage. After said inspection, the Board of Health may issue such permit, if it finds that the manner and form of storage protects the health, safety and well-being of the general public as to fly breeding.
- B. If the Board of Health finds, after having conducted an on-site inspection, that the storage of poultry manure is creating a health hazard as a result of an immediate and excessive fly breeding problem, the Board of Health may then order the person who is storing said poultry manure to spread and plow under said manure to a minimum depth of six (6) inches or to remove all of said manure from the Town of Sunderland within a period of twenty-four (24) hours from the time of issuance of such order by the Board of Health.

**§ 165-6. Contamination of water.**

No person shall stockpile, deposit or otherwise dump poultry manure on areas where it will flow into, leach into or be carried into any streams, ponds, rivers or other bodies of water.



**§ 165-7. Applicability.**

All provisions set forth hereinabove pertain to any person acquiring, storing, stockpiling, using, depositing or otherwise dumping poultry manure on or about property in the Town of Sunderland, whether such property is owned, used or leased by such person.

**§ 165-8. Violations and penalties.**

- A. Whoever, by himself or by his servants, agents or employees, or as a servant, agent or employee of any other person or any firm or corporation, violates this health regulation or any of its sections shall be punished by a fine of not more than fifty dollars (\$50.) for each violation.
- B. Each day or portion thereof of continuing violation shall constitute a separate offense.
- C. If any person who violates this regulation refuses or fails to comply with any Board of Health order issued in connection herewith, the Board of Health, in addition to the remedy provided hereinabove in Subsections A and B, may avail itself of any other remedies available under the General Laws of the Commonwealth of Massachusetts to eliminate any poultry manure problem, including but not limited to the plowing under or removal of such poultry manure from the Town of Sunderland directly by the Board of Health, its agents, servants, employees or hired hands, at the expense of the person in violation, who shall pay such expense directly to the Board of Health when invoiced.

**ARTICLE II****Nonpoultry Manure**

**[Adopted effective 7-6-1985]**

**§ 165-9. Definitions.**

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

**FIELDS** — Includes those fields plowed, harrowed or cultivated on a yearly basis, as well as fields not regularly plowed, harrowed or cultivated yearly, such as hay, alfalfa and other similar feed crops to include pasture lands.

**PERSON** — Includes an individual, partnership (limited, general or otherwise), corporation, firm or any other entity, business or otherwise.

**§ 165-10. Transportation and importation.**

Manure (liquid or solid) transported within or imported into the Town of Sunderland must be in vehicles or containers which will prevent spillage onto streets or highways.

**§ 165-11. Spreading.**

No person shall spread or deposit manure on fields where it will flow into, leach into or be carried into streams, ponds, rivers or other bodies of water.

**§ 165-12. Excessive fly breeding.**

If, due to weather conditions, excessive fly breeding is apparent, such fields will be plowed under to a depth of six (6) inches minimum within twenty-four (24) hours of receipt of notice from the Board of Health.

**§ 165-13. Applicability.**

All provisions set forth hereinabove pertain to any person depositing or spreading manure on or about property in the Town of Sunderland, whether such property is owned, used or leased by such person.

**§ 165-14. Violations and penalties.**

- A. Whoever, by himself or by his servants, agents or employees, or as a servant, agent or employee of any other person or any firm or corporation, violates this health regulation shall be punished by a fine of not more than fifty dollars (\$50.) for each violation.
- B. Each day or portion thereof of continuing violation shall constitute a separate offense.

## **Chapter 166**

### **NUISANCES**

**§ 166-1. Animal bodies or material as obstruction.**

**§ 166-2. Covering of offensive material.**

**§ 166-3. Prohibited runoff.**

**[HISTORY: Adopted by the Board of Health of the Town of Sunderland 4-16-1974. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Peace and good order — See Ch. 89.  
Streets and sidewalks — See Ch. 106.  
Unregistered vehicles — See Ch. 119.

Dog control — See Ch. 130.  
Landfill — See Ch. 164.

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**§ 166-1. Animal bodies or material as obstruction.**

No person shall leave on a street or stream, public or private, the body of a dead animal, fowl or material that may become a nuisance or may tend to obstruct stream flow.

**§ 166-2. Covering of offensive material.**

The owner, agent or lessee of land or an enclosure shall cover offensive material and level the area. All possible care shall be taken to prevent the escape of dust and paper from the dump area and from the vehicle transporting refuse.

**§ 166-3. Prohibited runoff.**

No owner, occupant or agent of any building shall permit the contents of drainage, privy vault, septic tank, water closet or sink drain or any other filth to empty on the surface of the ground or enter into any drain designed for the removal of surface water or a ditch, brook, stream or any body of water.

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## Chapter 172

### SEWAGE DISPOSAL SYSTEMS, SUBSURFACE

#### ARTICLE I General Regulations

- § 172-1. Authority; purpose.
- § 172-2. Location restrictions.
- § 172-3. Percolation tests.
- § 172-4. Design requirements.
- § 172-5. Duplex housing structures.
- § 172-6. Condominiums.
- § 172-7. Construction requirements.
- § 172-8. Inspections.
- § 172-9. Violations and penalties.
- § 172-10. Effect on existing permits.

§ 172-10.1. Variances.

§ 172-10.2. Abandonment of on-site septic systems.

#### ARTICLE II Sale of Property or Change in Use Inspection

- § 172-11. Authority; purpose.
- § 172-12. Definitions.
- § 172-13. Existing systems.
- § 172-14. Exemptions.
- § 172-15. Enforcement.
- § 172-16. Instructions for inspections.

[HISTORY: Adopted by the Board of Health of the Town of Sunderland as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Plumbing — See Ch. 140.  
Sewers — See Ch. 144.

Building standards — See Ch. 152.  
Wells — See Ch. 177.

#### ARTICLE I General Regulations [Adopted 3-24-1987]

§ 172-1. Authority; purpose. [Amended 8-10-1995]

In accordance with 310 CMR 11.02 and 310 CMR 15.003, the Sunderland Board of Health adopts the following regulations governing individual subsurface sewage disposal systems in order to promote and protect the health and well-being of the residents of Sunderland.

§ 172-2. Location restrictions. [Amended 8-10-1995]

- A. All individual sewage disposal systems must conform to the minimum setback distances for soil absorption systems, including reserve area, measured in feet and set forth below. Where more than one (1) setback applies, all setback requirements shall be satisfied. [Amended 6-7-1999]

- (1) Property line: twenty-five (25) feet.

- (2) Surface waters: one hundred (100) feet.
- (3) Private water supply well or suction line: one hundred (100) feet.
- B. All other minimum setbacks required in 310 CMR 15.211 not specified as above shall apply to individual subsurface sewage disposal systems.

#### § 172-3. Percolation tests.

- A. Percolation tests may be conducted year round. [Amended 3-8-1989; 12-4-1995]
- B. Percolation tests may not be conducted in any location where the frostline has extended below a level of fifteen (15) inches.
- C. Two (2) deep hole tests are required to provide the Board of Health with an accurate profile of the existing soil and groundwater conditions.
- D. The minimum percolation rate shall be twenty (20) minutes per inch.
- E. A percolation test shall be deemed to have failed if:
  - (1) Ledge rock or other impervious material is found at a depth closer to the surface than will permit at least six (6) feet of naturally occurring soil.
  - (2) Water or the evidence of the continued presence of water is found at a level or depth closer to the surface than will permit at least six (6) feet of naturally occurring soil which is suitable for disposal of the liquid effluent of the system.
- F. Any location which has failed a percolation test may not be retested for a period of one (1) year. The area within a radius of twenty-five (25) feet from the test site shall be included in the area which may not be retested.
- G. Percolation tests are valid for two (2) years as of June 1, 1991. [Added 4-3-1991]

#### § 172-4. Design requirements.

- A. Each disposal system must be designed by a registered sanitarian or engineer and shall show location in relation to the proposed building. This disposal site may not be relocated on the property without the prior approval of the Board of Health; in some instances, an additional percolation test may be required.
- B. The applicant shall complete an application for a disposal system construction permit on a form provided by the Board of Health Office, and shall submit four copies of the plans to the Board of Health Office, along with an application fee as set by the Board of Health from time to time. [Added 6-7-1999]
- C. The Board of Health agent/engineer then reviews the plans. If the plans comply with the necessary regulations and are in accordance with good engineering practices, a permit is issued. One (1) copy of the approved permit and three (3) copies of the plan, stamped "APPROVED" will be returned to the applicant. The applicant then may apply for a building permit from the Inspector of Buildings where applicable. [Added 6-7-1999]

- D. If the plan is not complete or does not comply with state or Board of Health regulations in all respects, it will be returned to the applicant, who must have his designer correct the plan as required. An additional fee, as set by the Board of Health from time to time, shall be required for each time the plan is returned for revisions, except for the first one. It is strongly recommended that this be accomplished when the foundation forms are in place in order to minimize the expense and inconvenience of the correcting an improper installation. It is the responsibility of the applicant, the designer, and the installer to examine the plan to assure themselves that the house is in the right place and the system can be constructed as shown on the approved plan. In such case the structure is not as shown on the approved design plan, a new revised plan shall be required. An application fee, as set by the Board of Health from time to time, shall be required. [Added 6-7-1999]

**§ 172-5. Duplex housing structures.**

Any duplex housing structure shall have a minimum one-thousand-five-hundred-gallon-capacity septic tank and a minimum one-thousand-five-hundred-square-foot leaching area. With approval, leaching tanks may be used.

**§ 172-6. Condominiums.**

- A. These regulations apply to development, construction or conversion intended to establish a condominium association.
- B. Any septic system expected to receive fifteen thousand (15,000) gallons per day must be reviewed and approved by the Department of Environmental Quality Engineering (DEQE).
- C. Prior to the issuance of any disposal works construction permit, a copy of the proposed master deed must be submitted to the Board of Health for approval. Copies of the master deed shall be submitted to the Building Inspector and Board of Health along with a written request for review. The Board shall have twenty-one (21) days to accept or reject the proposed master deed and shall notify the applicant in writing. Failure of the Board to act upon the request for review shall be deemed approval for the purposes of issuing disposal works construction permits.
- D. No certificate of occupancy shall be issued for any portion of a condominium until the master deed, as approved by the Board of Health and/or DEQE, has been duly recorded at the Registry of Deeds for Franklin County and a final copy has been filed with the Board.
- E. The master deed for an condominium utilizing a subsurface disposal system to be owned jointly shall include the provision that such system shall be cleaned and emptied at least once every three (3) years.
- F. Any restriction or constraint placed upon the use or operation of a septic system for a condominium, either by the system designer or by the Board of Health, shall be written into the master deed. An example of such a restriction would be an indication by the designer that the disposal system is not intended to accommodate garbage grinders.

**§ 172-7. Construction requirements.**

- A. Prior to installation of any system, the application for disposal works construction and the disposal works construction permit must be complete with all fees paid.
- B. Construction shall be done only by an installer with a current permit from the Board of Health and must be in compliance with Title 5 of the State Environmental Code and this regulation. Any construction being done by an installer without a valid permit will be stopped until such permit is obtained.
- C. Any septic installer who starts construction on a sewage disposal system without the proper permit in hand will have to stop construction at once and have to pay double the amount for fees. [Added 6-7-1999]

**§ 172-8. Inspections.**

- A. Disposal systems must be inspected by the Board of Health before being covered with soil or gravel.
- B. No inspection of a system will be done without the installer or owner being present with all permits. (See § 172-7.)
- C. A certificate of compliance must be completed at the time of inspection, and the fee must be paid.
- D. Copies of all permits, system design and location must be provided for the Board of Health at the time of inspection.

**§ 172-9. Violations and penalties.**

Violations of this regulation shall be punishable by a fine of not more than one hundred dollars (\$100.) per violation. Each day that the violation continues to exist may be considered a separate violation.

**§ 172-10. Effect on existing permits.**

- A. Any percolation test and/or disposal works construction permit approved or issued by the Board of Health prior to the effective date of this regulation shall not be affected by this regulation for a period of two (2) years from date of issuance, at which it shall become fully subject to this regulation.
- B. Any restrictions on the location of septic disposal systems (see § 172-2) shall not be covered by the above two-year period.

**§ 172-10.1. Variances. [Added 8-10-1995]**

Every request for a variance shall be in writing. No application for a variance shall be complete until the applicant has notified all abutters by certified mail at his/her own expense at least ten (10) days before the Board of Health meeting at which the variance request will be on the



agenda. Any variance allowed by the Board of Health shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons for the denial.

**§ 172-10.2. Abandonment of on-site septic systems. [Added 6-7-1999]**

Abandonment of on-site septic systems shall be performed in accordance with the requirements of the Board of Health to be established on case-by-case basis.

**ARTICLE II**

**Sale of Property or Change in Use Inspection**

**[Adopted 12-5-1990]**

**§ 172-11. Authority; purpose.**

- A. Authority. These regulations shall be effective on and after February 1, 1991, and so remain until modified or amended by the Board of Health. They are enacted by the Board of Health under authority which includes but is not limited to one (1) or more of the following: MGL c. 111, §§ 31, 122, 122A, 127, 143, 155, 187 and 188, and 310 CMR 11.02. Board of Health regulations are an exercise of the police power under which the various levels of government are responsible for protection of the public health, safety and welfare.
- B. Purpose. This regulation of the Board of Health has been enacted for the purpose of protection of the public health, safety and welfare, by identifying failed or otherwise inadequate subsurface sewage disposal systems and correcting any deficiencies which may exist. It is also intended to ensure that systems are not used for purposes for which they were not designed.

**§ 172-12. Definitions.**

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

**CHANGE OF USE** — When the use of the property is altered or extended in any way.

**DEVELOPED PROPERTY** — Any real estate with a human-made structure used or intended for human occupancy or use or with an existing subsurface sewage disposal system located on the property, or both.

**FAILED SYSTEM** — A septic system in which there is evidence, based upon the inspection required by this regulation, of one (1) or more of the following problems:

- A. Sewage flow to the surface or into any waters of the commonwealth.
- B. Outlet tee or baffle is not in place or is damaged in the septic tank.
- C. Inlet tee or baffle is not in place or is damaged in the septic tank.
- D. Liquid level in tank is above the tank outlet.

- E. After or during tank pumping, liquid is observed flowing from the outlet back into the tank.
- F. Leaching facility is not in place after the septic tank.
- G. Any other problem, as defined by the Board of Health, representing an actual threat to the public health.

INSPECTION:

A. Consists of the following steps:

- (1) Visual inspection of the ground surface around the septic system to look for signs of sewage or high groundwater.
- (2) Review of all available records and inquiry to the owner, installer and Board of Health to identify, if possible, the location and type of leaching facility and distribution box.
- (3) Review of all available records and inquiry to the owner and licensed plumbers to determine, if possible, how often the septic tank has been pumped during the two (2) years preceding the inspection.
- (4) Location of all domestic water supply wells, lakes, ponds, streams and watercourses, within one hundred (100) feet of the leaching facility if its location can be determined or, if the location of the leaching facility cannot be determined, within one hundred (100) feet of the septic tank.
- (5) Opening the septic tank and pumping out its contents.
- (6) Determine materials of tank construction.
- (7) Filling the bathtub with water and releasing, checking for slow wastewater discharge to the system.
- (8) Personal observation, by a registered professional engineer or registered sanitarian, of the pumping of the septic tank. A representative of the Board of Health must be present for the observation to be valid.
- (9) Recording observations of the following:
  - (a) The address and owner of the tank.
  - (b) Determination of the tank construction material.
  - (c) The amount of septage pumped from the tank.
  - (d) Whether an outlet tee or baffle is in place and not damaged in the septic tank.
  - (e) Whether an inlet tee or baffle is in place and not damaged in the septic tank.
  - (f) Whether the liquid level in tank, prior to pumping, is above the tank outlet.
  - (g) Whether liquid is observed flowing from the outlet back into the tank during or after pumping.

- B. Nothing in the foregoing definition of "inspection" is intended to require any registered professional engineer or registered sanitarian to excavate or directly certify the condition of any leaching facility, distribution box or septic tank inlet/outlet lines. This definition adopts the approach that visual inspection of the property, inspection of any available records and observation of pumping of the septic tank together provide a reasonable indicator of the functioning of the septic system. Any opinion or certification provided by the registered professional engineer or registered sanitarian is based solely upon this limited inspection.

**OWNER** — Every person who alone or severally with others has legal title to any developed property or has care, charge or control of the developed property, 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 mortgagee in possession or agent, trustee or other person appointed by the courts or any officer or trustee of the association of unit owners of a condominium.

**REAL ESTATE TRANSFER** — Any sale or conveyance of real estate, except:

- A. Conveyance or device of the property to a surviving spouse.
- B. A sale under a power of sale contained in a bona fide recorded mortgage affecting the property.
- C. In the case of joint ownership, if the property is conveyed to one (1) of the original joint owners.

**SEPTIC SYSTEM** — The septic tank, distribution box (if available) and surface land area of the lot on which the system is most likely located, unless the exact location is known.

**§ 172-13. Existing systems.**

- A. The inspection of existing commercial and residential sewage systems shall be the responsibility of the owner and real estate agent, if applicable, prior to real estate transfers or change in use.
- B. The owner of a developed property shall order and complete an inspection of the existing subsurface sewage system not more than one hundred eighty (180) days and not less than thirty (30) days prior to the time of transfer of the real estate or of a change in use. The Board of Health may, at its discretion, grant a variance in these time limitations.
- C. For the purpose of this regulation, reference is made to the standards and provisions of Title 5 of the State Environmental Code (310 CMR 15.00) and to any applicable regulations of the Board of Health for subsurface sewage disposal.
- D. In the case of a change of use, the applicant shall have the responsibility of proving to the Board of Health that the septic system is adequate for safely handling the proposed change of use.
- E. After an inspection by a registered professional engineer or registered sanitarian, that engineer or sanitarian shall file an inspection form with the Board of Health and shall provide copies to the owner or seller, seller's attorney, seller's real estate

broker/salesperson and buyer, stating whether the system is believed to be in operational or failed condition, based upon the inspection required by this regulation, and whether the system is adequate for a proposed change in use. The filing with the Board of Health shall be accompanied by a filing fee, in an amount to be established by the Board of Health.

**§ 172-14. Exemptions.**

- A. Any new or replacement Title 5 system having been installed and having received final inspection approval by the Board of Health within a period of five years preceding the transfer of the property shall be exempt from this regulation, provided that additional living space which exceeds the capacity has not been added nor has anything been added to the house which is not in accordance with the original approved design of the system, such as a garbage grinder, an addition or roof drains, and further provided that there has been no change in intended use. A copy of the disposal works construction permit and certificate of compliance, as approved by the Board of Health, must be submitted, together with the filing fee, in lieu of the inspection form not less than thirty (30) days prior to each transfer.
- B. Real estate transfers which are otherwise subject to this regulation and which take place within two (2) years following the date of an inspection under this regulation and are found to be in operational working order may be exempt from the inspection requirement, but not the pumping requirement as found in this regulation, upon review and approval by the Board of Health. A copy of the original inspection form must be submitted, together with a new filing fee, to the Board of Health for review thirty (30) days prior to the real estate transfer. Systems that were found to be in a failed condition are required to be repaired and to be inspected prior to a real estate transfer, unless meeting the requirements of Subsection C below. The Board of Health may, in its discretion, provide for review in a period less than thirty (30) days. There shall be a fee, in an amount to be established by the Board of Health, for any reinspections.
- C. Sellers and buyers who transfer an existing structure with the intent to replace the existing septic system with a system in compliance with Title 5 of the State Environmental Code and all applicable local bylaws and regulations may submit, together with the filing fee, an application to the Board of Health for exemption from this regulation. The seller and the buyer together must apply, in writing, showing that both parties have agreed to the arrangement and accept joint responsibility for seeing that the new system is installed. The application for exemption must include a written statement from a registered professional engineer or registered sanitarian that he/she has been placed under contract by the parties to design the replacement system and that a replacement septic system in compliance with Title 5 of the State Environmental Code and any applicable local regulations can be installed on the property and that all work necessary for installation of the replacement septic system will be completed by a stated date, which must be within one (1) year from the date of transfer. The repair/replacement work may not be done by the same professional engineer or professional sanitarian or associated firms as conducted the original inspection under this regulation. Applications under this subsection may be granted or denied at the discretion of the Board of Health.

**§ 172-15. Enforcement.**

- A. If it is determined by the Board of Health that the system constitutes a danger to the public health, the Board shall order the owner to make repairs/replacement of the system, in accordance with all applicable laws and regulations, within a time limit to be determined by the Board of Health. If the work is not completed within the time designated by the Board of Health, the Board may impose fines and may repair or replace the system at the cost of the owner. The repair/replacement work may not be done by the same professional engineer or professional sanitarian or associated firms as conducted the original inspection under this regulation.
- B. If it is determined by the Board of Health that the system is inadequate for a proposed change in use, the Board shall require the upgrading of the system to meet the anticipated use, in accordance with all applicable laws and regulations, within a time limit to be determined by the Board of Health. If the work is not completed within the time designated by the Board of Health, the Board may impose fines and may repair or replace the system at the cost of the owner. The upgrading work may not be done by the same professional engineer or professional sanitarian or associated firms as conducted the original inspection under this regulation.
- C. In addition to any other remedy, the Board of Health may take any enforcement action deemed appropriate and lawful, including but not limited to criminal prosecution, to seek a fine in accordance with MGL c. 111, § 31, or civil action for injunctive relief or money damages, or both.
- D. The Board of Health is authorized to issue notices of violation, cease and desist orders or other administrative enforcement orders to compel compliance with these regulations.
- E. After an inspection by a registered professional engineer or registered sanitarian, that engineer or sanitarian shall file an inspection form with the Board of Health, together with the required filing fee, and shall provide copies to the Board of Health, the seller and the buyer, stating whether the system is in operational condition or needs to be repaired. A representative of the Board of Health must be present during said inspection in order for it to be valid.
- F. Each part of this regulation shall be construed as separate to the end that if any paragraph, sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that regulation and all other regulations shall continue in full force.

**§ 172-16. Instructions for inspections.**

(NOTE: See the definition of "inspection" in § 172-12 of this regulation, as well as the definition of "failed systems.")

- A. The inspection by the registered professional engineer or registered sanitarian shall take place no more than one hundred eighty (180) days nor less than thirty (30) days prior to the real estate transfer or change in use. A representative of the Board of Health must be present at said inspection. The Board of Health must receive the inspection form within seven (7) days of the inspection. In addition, the copies must be given to the owner and to the buyer at that time. Inspection forms are provided by the Board of Health.

- B. If the inspection finds evidence of a failed system, the Board of Health shall determine, within fourteen (14) days after receiving the inspection form, whether the system constitutes a danger or potential danger to the public health and should be repaired or replaced. By the end of the fourteen-day time period, the Board of Health must notify the owner by certified or registered mail, with return receipt requested, whether the system must be repaired or replaced or that some other available alternative must be pursued. Follow-up inspection(s) may be required by the Board of Health. A representative of the Board of Health must be present at such an inspection. There shall be a fee for each follow-up inspection.
- C. The time allowed for the repair or replacement will be determined by the Board of Health and will be contained in the letter of notification to the owner.
- D. If repair or replacement is required, the owner must conduct the site inspection as provided by Title 5 of the State Environmental Code (310 CMR 15.00) and by local regulations of the Board of Health. Any such repair or replacement shall be done only in accordance with a disposal works construction permit obtained by the owner in accordance with said Title 5 and local regulations.

## **Chapter 174**

### **SMOKING<sup>1</sup>**

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<sup>1</sup> Editor's Note: Regulations Affecting Smoking in Certain Places and Youth Access to Tobacco, adopted by the Board of Health 8-22-1995 to be effective 11-1-1995, are on file in the town offices. Said regulations superseded former Ch. 174, Smoking, adopted by the Board of Health 3-24-1987.

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## Chapter 177

### WELLS

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| § 177-1. Purpose.                                     | § 177-6. Location of wells.                         |
| § 177-2. Authority.                                   | § 177-7. Application procedure.                     |
| § 177-3. Definitions.                                 | § 177-8. Requirements for water supply certificate. |
| § 177-4. Construction or destruction permit required. | § 177-9. Additional guidelines.                     |
| § 177-5. Registration of diggers and drillers.        | § 177-10. Violations and penalties.                 |
|   | § 177-11. Severability.                             |

[HISTORY: Adopted by the Board of Health of the Town of Sunderland 9-4-1985. Amendments noted where applicable.]

#### GENERAL REFERENCES

Sewers — See Ch. 144.

Subsurface sewage disposal systems — See Ch. 172.

#### § 177-1. Purpose.

The purpose of this regulation is to ensure housing units, not accessible to the public water supply, of safe drinking water and to ensure the safe destruction of abandoned private wells. Private well contamination in the past has led to exposure to contaminated drinking water and expensive extension of town waterlines.

#### § 177-2. Authority.

Massachusetts General Law c. 111, § 31, Board of Health, may make reasonable health regulations, and MGL c. 40, § 54, requires that no building permit be issued to a property without a potable water supply. Water supply officials are responsible for regulating and monitoring public water. The regulation of private wells is the responsibility of local Boards of Health.

#### § 177-3. Definitions.

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

**BOARD OF HEALTH** — Refers to the Town of Sunderland's Board of Health.

**PRIVATE WELL** — Any well serving less than fifteen (15) houses and serving fewer than twenty-five (25) people.

**WELL** — Includes any dug, driven or drilled well, or any other source of water, to be used for the purpose of supplying potable drinking water in the Town of Sunderland.

**WELL DRILLER** — Any person, association, partnership, company, corporation or trust that constructs a well.

**§ 177-4. Construction or destruction permit required.**

A private well construction or destruction permit shall be obtained from the Board of Health prior to construction or destruction of any private well.

**§ 177-5. Registration of diggers and drillers.**

No person shall construct or destroy a private well within the boundaries of the Town of Sunderland unless registered with the Water Resources Commission as required by State Regulation 313 CMR 3.00, Water Well Registration, as of August 27, 1981. A copy of the well driller's license must accompany application for permit.

**§ 177-6. Location of wells.**

- A. [Amended 5-3-1995] Well location criteria<sup>1</sup> shall include the following minimum lateral distances from the well site to the following:

Well Site	Minimum Distance (feet)
Subsurface sewage disposal systems located in soils with a recorded perc. rate of more than 3 minutes per inch	100
Subsurface sewage disposal systems located in soils with a recorded perc. rate of 3 minutes per inch or less	150
Subsurface sewage disposal systems located in soils with no recorded perc. rate available	150

- B. The generalities of the aforesaid notwithstanding, no one shall position, locate, drill or dig a well or cause the same to be done in such a manner as to limit the use or enjoyment of any neighboring property in any manner whatsoever.

**§ 177-7. Application procedure.**

- A. An application for a well construction or destruction permit shall be submitted by the property owner or owner's agent to the Board of Health on a form provided by the Board of Health.

<sup>1</sup> Editor's Note: See § 177-7 for well construction and location modifications.

- B. The map and plot number, the location of the existing or proposed private well, to be destructed or constructed, and a general summary of any possible sources of contamination shall be submitted to the Board of Health with the permit application.
- C. The application for a well destruction permit shall be accompanied by a plot plan with dimensions identifying the location of the well.
- D. The application for a well construction permit shall be accompanied by an extended plot plan<sup>2</sup> which will show dimensions from a distance of within two hundred (200) feet of the proposed well site to the following:
  - (1) Existing and proposed structures.
  - (2) Surface waters and surface drainage courses.
  - (3) Subsurface sewage disposal fields, trenches or pits and adjoining septic tanks or cesspools.
  - (4) Subsurface fuel-storage tanks.
  - (5) Other potential sources of pollution an experienced well driller should reasonably be expected to recognize.
  - (6) Property lines.
  - (7) Public way.
- E. The Board of Health will charge a fee of fifty dollars (\$50.) for a well construction permit or a well destruction permit. [Amended 12-4-1995]
- F. The Board of Health may require well location and construction modifications where reasonable health threats exist or when unusual hardships exist and equivalent water quality protection may be provided.
- G. Well construction may proceed upon the approval of an application permit.

**§ 177-8. Requirements for water supply certificate.**

The following shall be required for a water supply certification which shall be required for the operation of a new well and/or the issuance of a building permit in the Town of Sunderland.

- A. For homes to be connected to public water, a copy of a Town of Sunderland Water District entrance fee receipt to be provided by the landowner to the Board of Health before a building permit can be issued; or
- B. For homes which will be served by private wells, the following must be provided within thirty (30) days of well completion:
  - (1) A completed and approved application referred to in § 177-7.

<sup>2</sup> NOTE: The best available plot information will be required. Acceptable information sources include Board of Health records, on-site inspection, adjacent plot owner estimates and the Fire Department records.

- (2) If the applicant fails to provide the approved application the Board of Health may approve a new application and assess a late application fee. [Amended 5-3-1995]
- (3) The owner or owner's agent shall furnish the Board of Health with the results of bacteriological, physical and sanitary chemical analyses of the well water. Such analyses shall include standard tests for total and fecal coliform organisms, color, turbidity, sediment, odor, pH, hardness, sodium, iron, manganese, chloride, ammonia, nitrogen, nitrate and nitrite. The results of such tests shall also be provided to the owner of the property to be served by the well, and all tests shall be performed by a Division of Environmental Quality Engineering approved laboratory. The Board of Health may require additional water quality tests where reasonable contamination threats are known to exist. These additional tests may be for wells located in former farming areas or in other areas without access to the town water supply where possible contamination from various chemicals and/or pesticides may be suspected. Additional tests by owners of older wells may also be required if located in close proximity to any spillage of toxic materials. As all laboratories are not equipped to test for certain environmental variables, the laboratory chosen for analyses must be approved by both the Department of Environmental Quality Engineering and the Board of Health. [Amended 3-24-1987]
- (4) A certificate of construction by the well driller that she/he has complied with Department of Environmental Quality Engineering, Division of Water Supply, Guidelines for Public Water Systems, adopted for private wells in the Town of Sunderland.

#### § 177-9. Additional guidelines.

The Board of Health includes the Department of Environmental Quality Engineering, Guidelines for Public Water Systems, as part of the private well regulation.

#### § 177-10. Violations and penalties.

Whosoever violates any of these rules and regulations shall, upon conviction, be fined not less than ten dollars (\$10.) nor more than five hundred dollars (\$500.,) except when otherwise provided by law.

#### § 177-11. Severability.

If any article, regulation, paragraph, sentence, clause, phrase or word of the rules and regulations adopted by the Sunderland Board of Health shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of said regulations, which shall remain in full force and effect, and, to this end, provisions, and rules and regulations of the Sunderland Board of Health are hereby declared severable.

## **DIVISION 4**

# **MISCELLANEOUS REGULATIONS**

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# **APPENDIX**

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## Chapter A201

### GENERAL AND SPECIAL LAWS

§ A201-1. Laws and acts enumerated.

§ A201-1. Laws and acts enumerated.

The following is a listing of General Laws and Special Acts accepted by the Town of Sunderland:

<b>Date Accepted</b>	<b>Statutory Reference</b>	<b>Subject</b>
1946, Art. 26	Ch. 124, Acts of 1945	Establishment of Stabilization Fund
1954, Art. 1	MGL c. 71, §§ 16 to 161	Frontier regional school district
1956, Art. 21	MGL c. 32B	Insurance for employees
2-8-1958, Art. 27	MGL c. 41, § 81A	Establishment of Planning Board
1961	MGL c. 85, § 11A	Registration of bicycles
1961	MGL c. 40 § 5B	Stabilization Fund
1962	MGL c. 83, § 16	Assessment for use of sewers
1964, Art. 2	MGL c. 48, §§ 42 to 44	Establish Fire Department
2-15-1964, Art. 25	MGL c. 143, § 30	Appointment of Gas Inspector
2-11-1965, Art. 15	MGL c. 40, § 8C	Establishment of Conservation Committee (membership changed 8-4-1982 STM, Art. 2)
1969, Art. 10	MGL c. 149, § 1781	Attorney for school negotiations
1971, Art. 13	MGL c. 41, § 97A	Establish Police Department
1971, Art. 14	MGL c. 41, § 98	Defining duties of police officers
1971, Art. 15	MGL c. 41, § 99	Allowing police officers to serve in other places
2-26-1972, Art. 17	MGL c. 71, § 11	Establishment of Regional School District Planning Committee
2-26-1972, Art. 18	MGL c. 41, § 91A	Constables
1972, Ballot	MGL c. 32B	Health insurance
1972, Art 1	MGL c. 71, §§ 16 to 161	Regional vocational school

Date Accepted	Statutory Reference	Subject
1973, Art. 3	MGL c. 44, § 53C	Depository for paying off-duty police officers
1973, Art. 3	MGL c. 91, § 29	Damages by Department of Public Works
1974, Art. 15	MGL c. 101	Town bylaw transient vendor process
1975, Art. 4	MGL c. 41, § 21	Tree Warden
2-23-1975, Art. 19	—	Housing Authority
1976, Ballot	Acts of 1975	Appointment of police officers
1978, Art. 14	Ch. 586, Acts of 1977	Sewer bills
1978, Art. 4	MGL c. 40, § 8B	Establish Council on Aging
4-28-1978, Art. 24	MGL c. 41, § 1	Establishment of Board of Health
4-28-1978, Art. 19	—	Establishment of Energy Conservation Committee
1979, Art. 12	MGL c. 138, § 33A	Sale of liquor
1981, Art. 12	MGL c. 40, § 8G	Police mutual aid
1981, Art. 15	MGL c. 40, § 4A	Nursing
1981, Art. 7	MGL c. 44, § 53D	Recreation revolving fund
1982, Art. 13	MGL c. 262, § 34	Town Clerk's fees
1982, Art. 13	MGL c. 140, § 202	Town Clerk's fees
1982, Ballot	MGL c. 32B, § 8A	Health insurance for employees
1983, Art. 8	MGL c. 40, § 8G	Police mutual aid
1983, Art. 22	MGL c. 33A, § 138	Sale of alcoholic beverages
1984, Art. 4	Ch. 233, Acts of 1962	Bonding of town employees
1984, Art. 16	MGL c. 41	Senior citizens tax exemption
4-26-1985, Art. 23	MGL c. 269, § 12B	Weapons
10-30-1985, Art. 15	MGL c. 90, § 20A	Appoint parking clerk
12-16-1986, Art. 5	MGL c. 71, § 40	Teachers salaries
4-29-1988, Art. 9	MGL c. 41, § 97A	Right of police officers to public hearing prior to dismissal
9-19-1988, Art. 5	MGL c. 148, § 26E	Smoke detectors
9-19-1988, Art. 7	MGL c. 148, §§ 26B and 26C	Smoke detectors

<b>Date Accepted</b>	<b>Statutory Reference</b>	<b>Subject</b>
4-28-1989, Art. 11	MGL c. 40, §§ 44A to 44L	Establishment of Franklin County Solid Waste Management District
4-27-1990, Art. 25	MGL c. 83, §§ 16A to 16F	Late sewer charges to become lien on property
4-27-1990, Art. 26	Ch. 402, Acts of 1987	Collection of property tax not in excess of \$50
4-27-1990, Art. 27	Ch. 250, Acts of 1987	Schedule of fees for municipal lien certificates
4-27-1990, Art. 28	MGL c. 59, § 57B	Interest billed on unpaid tax
4-26-1991, Art. 34	Ch. 291, Acts of 1990	Enhanced 911 service
4-26-1991, Art. 40	MGL c. 60, § 2	Abate tax bills less than \$10
9-12-1991, Art. 11	MGL c. 40, § 22F	Local determination of fees for certain licenses, permits or certificates
9-12-1991 Art. 12	MGL c. 40, § 57	Revocation or suspension of licenses for failure to pay local taxes
10-16-1991, Art. 2	MGL c. 71, § 37A	Accept grants for educational purposes
4-24-1992, Art. 37	MGL c. 40, § 8D	Establishment of Historical Commission
4-24-1992, Art. 38	MGL c. 40, § 8J	Establishment of Commission on Disability
12-16-1992, Art. 12	MGL c. 166, § 32A	Assistant Wiring Inspector
10-21-1993, Art. 31	MGL c. 40, § 5F	Ambulance receipts
1994, Art. 28	MGL c. 140, § 147A	Amend Ch. 130, Dog Control, of Town bylaws
1995, Art. 16	Ch. 214, Acts of 1989	Abandoned vehicles
1997, Art. 9	MGL c. 59, § 5, Clause 41C	Real estate tax exemption
1997, Art. 10	Ch. 567, Acts of 1996	Charter established for F.R.C.O.G.
1997, Art. 28	MGL c. 111, 127B and/or c. 29	Financing water pollution abatement facility project
1999, Art. 25	MGL c. 40	2/3 vote declared by Moderator
1999, Ballot	MGL c. 32B, § 9A	Insurance for retired employees
4-30-1999, Art. 15	MGL c. 41, § 23A	Town Administrator
2001, Art. 12	MGL c. 41, § 108L	Quinn bill

<b>Date Accepted</b>	<b>Statutory Reference</b>	<b>Subject</b>
2003, Art. 15	MGL c. 41, § 19K	Certified Mass. Town Clerk
2003, Art. 16	MGL c. 41, § 108P	Certified Mass. Treasurer
4-30-2004, Art. 20	MGL c 90, § 20A	Parking regulation violation; noncriminal disposition; notice; appearance; Schedule of Fines; and establish office of Parking Clerk
4-30-2004, Art. 21	MGL c. 40, § 22D	Towing of vehicles illegally parked or standing on public ways
2006, Ballot	MGL c. 258, § 13	Indemnification of municipal officers from personal financial loss and expense
4-28-2006, Art. 26	MGL c. 59, § 5, Clause 54	Establishment of a minimum fair cash value of \$1,500.00 for personal property accounts to be taxed
4-27-2007, Art. 21	MGL c. 39, § 23D	Participation of board, committee and commission members in adjudicatory hearings following an absence from one session of such hearing
9-30-2008, Art. 11	MGL c. 82A, § 2	Designating the Board of Selectmen as the appointing authority for the board or officer responsible for the issuance of trench excavation permits
4-24-2009, Art. 4	MGL c.59, § 5, Clause 41C	Increase exemption allowed by 100% from \$500 to \$1,000 for qualified senior citizens
4-24-2009, Art. 5	MGL c. 59, § 5, Clause 41C	Increase gross receipt limits to \$20,000 for single and \$30,000 for married to determine eligibility requirements for seniors
4-24-2009, Art. 6	MGL c. 59, § 5, Clause 41C	Increase whole estate limit to \$40,000 for single and \$55,000 for married to determine eligibility requirements for seniors

<b>Date Accepted</b>	<b>Statutory Reference</b>	<b>Subject</b>
4-24-2009, Art. 7	MGL c. 59, § 5, Clause 41C	Reduce eligibility age from 70 years to 65 years for senior citizen exemptions
4-24-2009, Art. 8	MGL c. 59, § 5, Clause 41A	Increase gross receipts that seniors may have in the prior calendar year to be eligible to defer property taxes from \$20,000 to \$40,000
4-24-2009, Art. 13	MGL c. 44B, §§ 3 to 7	Approving an annual property tax surcharge of 3% to fund community preservation and the acquisition of open space; surcharge exemptions
4-24-2009, Art. 18	MGL c. 60, § 15	Authorize Town Treasurer to charge a fee of \$10 for each written demand issued by the Collector
8-17-2009, Art. 3	MGL c. 64L, § 2(a)	Authorizing the imposition of a local excise in the statutory amount of .75% on the sale of restaurant meals originating within the Town
8-17-2009, Art. 4	MGL c. 64G, § 3A	Authorizing the imposition of a local excise (6%) of a rate on the rental of rooms in hotels, motels, lodging houses and bed-and-breakfast establishments within the Town
8-17-2009, Art. 5	MGL c. 59, § 5K	Establishing a Senior Citizen Property Tax Work-Off Abatement Program
11-12-2010, Art. 5	MGL c. 138, § 33B	Allowing the authorization of sales of alcoholic beverages by on-premises licensees on Sundays between 10:00 a.m. and 12:00 noon
4-29-2011, Art. 4	MGL c. 59, § 57C	Establishing a semiannual preliminary tax payment system to be effective beginning Fiscal Year 2012

**Date  
Accepted**

4-27-2012, Art. 6

**Statutory  
Reference**

MGL c. 54, § 16A

**Subject**

Designating the Town Clerk  
to appoint persons to fill  
election vacancies if any  
officer is not present at the  
opening of the polls on  
election day

4-26-2013, Art. 13

MGL c. 32B, § 20

Establish an Other  
Post-Employment Benefits  
Liability Trust Fund

## **Chapter A202**

### **TOWN PARK**

**[HISTORY: This Appendix chapter is derived from a deed dated 2-2-1925.]**

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I, Chester Warner of Sunderland, County of Franklin, State of Massachusetts, do hereby give and convey unto the Town of Sunderland a certain parcel of land situate in said Sunderland to be used as a town park and to be known as the "Sunderland Town Park."

Situate near the Toby Range and bounded north and west by a highway known as the North Mountain Road also north by land formerly of Mrs. Fannie A. Fairchild; east by the top of the ledge; south by land of Stephen Petrovich; containing twelve (12) acres, more or less, being also known as the "Fish Sugar Lot."

The above-mentioned park shall be under the control of three (3) trustees, two (2) of which, one (1) shall be a member of the School Committee of the Town of Sunderland, shall be elected annually at the Annual Town Meeting, and the third trustee shall be the acting Principal of the highest grade school.

After the first year, the town may vote to elect the trustees for a longer term than one (1) year, if it considers such action desirable.

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## **Chapter A203**

### **RUBBISH, COLLECTION OF**

#### **§ A203-1. Service.**

**[HISTORY: This Appendix chapter is derived from the contract between the contractor and the town.]**

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#### **§ A203-1. Service.**

- A. The contractor agrees to make collections on a regular schedule of not less than once each week from each single-family residence and apartment unit in buildings of four (4) units or less within the town. The quantity of refuse shall not be limited, except that containers shall not exceed a thirty-gallon capacity.
- B. The contractor hereby agrees to collect and dispose of all domestic garbage, trash, bottles in suitable containers and newspapers.
- C. Collections shall be made from the curb or service drive, and the disposal of the same shall be outside of the corporate limits of the town, at a site selected by the town.
- D. The contractor shall not be required, within the normal service charge rates, to remove furniture, furnishings, fixtures, appliances, trees, tree branches, brush, shrubs, grass clippings, scrap materials from the construction, remodeling and repair of buildings, nor concrete bricks, tree stumps, earth or earthy materials, automobile bodies or large machine parts, nor materials of a toxic, highly flammable or explosive nature.
- E. The contractor may receive additional compensation, as agreed upon between the property owner and the contractor, for collection of those materials in Subsection D above.
- F. The contractor shall not be required to collect debris caused by tornado, war, major flood, etc.

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## **Chapter A203**

**(RESERVED)**

**[Former Ch. A203, Collection of Rubbish, derived from the contract between the contractor and the Town, was removed in November 2009 at the direction of the Town.]**

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## **Chapter A204**

### **LIBRARY AGREEMENT**

#### **§ A204-1. Agreement regarding Sunderland Public Library vault.**

**[HISTORY: This Appendix chapter is derived from the 2003 agreement between the Board of Selectmen and the Graves Memorial Library Trustees.]**

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#### **§ A204-1. Agreement regarding Sunderland Public Library vault.**

We agree that the Board of Selectmen shall have full responsibility for the vault located in the Sunderland Public Library. Access will be given to the custodian of records only, and the custodian of records will have unlimited access to the vault. Library staff, Trustees or any library volunteer group will not have direct access to the vault. The library portion will not be accessible during off-hours to the custodian of records. The vestibule will be used as an emergency exit by the library. All associated expenses of the vault, including maintenance and repair, will be the responsibility of the Board of Selectmen.



## Chapter DL

### DISPOSITION LIST

#### § DL-1. Disposition of legislation.

[The following is a chronological listing of legislation of the Town of Sunderland that has been included in the Code since its republication in 2000. When republished, the Code was current through Article 50 from the 4-28-2000 Annual Town Meeting.]

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#### § DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 12	4-27-2001	General law acceptance	Ch. A201
ATM, Art. 24	4-27-2001	Numbering of buildings amendment	Ch. 49
ATM, Art. 25	4-27-2001	Finance Committee amendment	Ch. 14, Art. II
ATM, Art. 27	4-27-2001	Personnel amendment	Ch. 31
ATM, Art. 28	4-27-2001	Personnel amendment	Ch. 31
ATM, Art. 30	4-27-2001	Sewers amendment	Ch. 144
ATM, Art. 16	4-26-2002	Vehicles and traffic amendment	Ch. 148
ATM, Art. 20	4-29-2002	Personnel amendment	Ch. 31
ATM, Art. 21	4-29-2002	Personnel amendment	Ch. 31
ATM, Art. 22	4-29-2002	Personnel amendment	Ch. 31
ATM, Art. 26	4-29-2002	Agricultural Land Preservation Committee repealer	Ch. 14, Art. IV (footnote only)
ATM, Art. 29	4-29-2002	Zoning amendment	Ch. 125
ATM, Art. 30	4-29-2002	Zoning amendment (adult-oriented businesses)	Ch. 125
ATM, Art. 31	4-29-2002	Zoning Map amendment (C-2 District)	NCM
ATM, Art. 32	4-29-2002	Zoning amendment	Ch. 125
ATM, Art. 33	4-29-2002	Zoning amendment	Ch. 125
ATM, Art. 11	4-25-2003	Building Committee amendment	Ch. 14, Art. I

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 13	4-25-2003	Location of Town Meetings	Ch. 40, Art. V
ATM, Art. 15	4-25-2003	General law acceptance	Ch. A201
ATM, Art. 16	4-25-2003	General law acceptance	Ch. A201
Planning Board	5-8-2003	Subdivision of land	Ch. 194
Board of Selectmen	2003	Library agreement	Ch. A204
ATM, Art. 20	4-30-2004	General law acceptance	Ch. A201
ATM, Art. 21	4-30-2004	General law acceptance	Ch. A201
ATM, Art. 22	4-30-2004	Warrants amendment	Ch. 40, Art. IV
ATM, Art. 23	4-30-2004	Dog control amendment	Ch. 130
Board of Selectmen	7-26-2004	Dog control amendment	Ch. 130
ATM, Art. 25	4-29-2005	Finance Committee amendment	Ch. 14, Art. II
ATM, Art. 26	4-29-2005	Finance Committee amendment	Ch. 14, Art. II
ATM, Art. 27	4-29-2005	Agricultural Commission	Ch. 14, Art. IV
ATM, Art. 28	4-29-2005	Zoning amendments	Ch. 125
Ballot Question 2	5-6-2006	General law acceptance	Ch. A201
ATM, Art. 21	4-28-2006	Zoning amendments	Ch. 125
ATM, Art. 22	4-28-2006	Personnel amendment	Ch. 31
ATM, Art. 23	4-28-2006	Personnel amendment	Ch. 31
ATM, Art. 24	4-28-2006	Personnel amendment	Ch. 31
ATM, Art. 26	4-28-2006	General law acceptance	Ch. A201
ATM, Art. 27	4-28-2006	Littering	Ch. 78



<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 25	4-27-2007	Board of Health fees amendment	Ch. 156
ATM, Art. 27	4-28-2008	Personnel amendment	Ch. 31
ATM, Art. 28	4-28-2008	Sewers amendment	Ch. 144
ATM, Art. 29	4-28-2008	Sewers amendment	Ch. 144
STM, Art. 11	9-30-2008	General Law acceptance	Ch. A201
ATM, Art. 4	4-24-2009	Taxation amendment (general and special taxation laws); General Law acceptance	Chs. 110 (table only); A201
ATM, Art. 5	4-24-2009	Taxation amendment (general and special taxation laws); General Law acceptance	Chs. 110 (table only); A201
ATM, Art. 6	4-24-2009	Taxation amendment (general and special taxation laws); General Law acceptance	Chs. 110 (table only); A201
ATM, Art. 7	4-24-2009	Taxation amendment (general and special taxation laws); General Law acceptance	Chs. 110 (table only); A201
ATM, Art. 8	4-24-2009	Taxation amendment (general and special taxation laws); General Law acceptance	Chs. 110 (table only); A201
ATM, Art. 11	4-24-2009	Zoning amendment	Ch. 125
ATM, Art. 12	4-24-2009	Farming: right to farm	Ch. 58, Art. I
ATM, Art. 13	4-24-2009	General Law acceptance	Ch. A201
ATM, Art. 18	4-24-2009	Taxation amendment (general and special taxation laws); General Law acceptance	Chs. 110 (table only); A201

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 23	4-24-2009	General provisions: noncriminal disposition	Ch. 1, Art. I
ATM, Art. 24	4-24-2009	Peace and good order amendment	Ch. 89
ATM, Art. 25	4-24-2009	False burglar and fire alarms	Ch. 57
ATM, Art. 26	4-24-2009	Peace and good order amendment	Ch. 89
STM, Art. 3	8-17-2009	Taxation amendment (general and special taxation laws); General Law acceptance	Chs. 110 (table only); A201
STM, Art. 4	8-17-2009	Taxation amendment (general and special taxation laws); General Law acceptance	Chs. 110 (table only); A201
STM, Art. 5	8-17-2009	Taxation amendment (general and special taxation laws); General Law acceptance	Chs. 110 (table only); A201
Planning Board	3-9-2010	Subdivision of land amendment	Ch. 194
ATM, Art. 6	4-30-2010	Zoning amendment	Ch. 125
STM, Art. 5	11-12-2010	General Law acceptance	Ch. A201
ATM, Art. 4	4-29-2011	General Law acceptance	Ch. A201
ATM, Art. 5	4-29-2011	Community Preservation Committee	Ch. 14, Art. V
ATM, Art. 7	4-29-2011	Zoning amendment	Ch. 125
ATM, Art. 8	4-29-2011	Personnel amendment	Ch. 31
ATM, Art. 6	4-27-2012	General Law acceptance	Ch. A201
ATM, Art. 7	4-27-2012	Personnel amendment	Ch. 31
ATM, Art. 8	4-27-2012	Peace and good order amendment	Ch. 89

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 9	4-27-2012	Peace and good order amendment	Ch. 89
ATM, Art. 10	4-27-2012	Emergency response and access	Ch. 56
ATM, Art. 11	4-27-2012	Recycling repealer	Ch. 95, reference only
ATM, Art. 12	4-27-2012	Landfill repealer	Ch. 164, reference only
ATM, Art. 14	4-27-2012	Zoning amendment	Ch. 125
ATM, Art. 15	4-27-2012	Zoning amendment	Ch. 125
ATM, Art. 16	4-27-2012	Building Code: Stretch Energy Code	Ch. 46, Art. I
ATM, Art. 22	4-27-2012	Sewers amendment	Ch. 144
ATM, Art. 23	4-27-2012	Dogs: dog control amendment; policies and violation fees amendment	Ch. 130, Arts. I and II
ATM, Art. 13	4-26-2013	General Law acceptance	Ch. A201
ATM, Art. 14	4-25-2014	Dogs: animal control amendment; policies and violation fees amendment	Ch. 130, Arts. I and II
ATM, Art. 15	4-25-2014	Zoning amendment	Ch. 125
ATM, Art. 17	4-25-2014	Zoning amendment	Ch. 125

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# SUNDERLAND INDEX

**DEFINITIONS NOTE:** For the convenience of the Code user, all terms defined in this Code are included in the Index under the heading "Definitions and Abbreviations."

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