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# **PART I**

## **ADMINISTRATIVE LEGISLATION**



## **Chapter 1**

### **GENERAL PROVISIONS**

#### **ARTICLE I** **General Information**

#### **ARTICLE II** **Enforcement of Violations**

- § 1-1. Enforcement by criminal complaint.**
- § 1-2. Noncriminal disposition of violations.**

#### **ARTICLE III** **Service on Permitting-Authority Bodies**

- § 1-3. Limitations on holding multiple board positions.**
- § 1-4. Existing positions.**
- § 1-5. Service through conclusion of public hearing.**

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

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#### **ARTICLE I** **General Information**

[The Town amended its by-laws 4-22-2019 ATM by Art. 13 to change "Board of Selectmen" or "Selectmen" to "Select Board" wherever the terms appear in the by-laws. This change was implemented with the 2023 codification of the by-laws.]

[The Town's General Bylaws are being codified as Chapters 1 through 281 and the Zoning Bylaw is being codified as Chapter 290, which codification will be approved at Town Meeting.]

#### **ARTICLE II** **Enforcement of Violations** **[Adopted as Ch. 10, § 10.4, of the 2015 Compilation]**

##### **§ 1-1. Enforcement by criminal complaint.**

Whoever violates any provisions of these by-laws may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation, or offense, brought in such manner, shall be \$300.

##### **§ 1-2. Noncriminal disposition of violations.**

###### **A. Noncriminal civil disposition.**

- (1) Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided

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in MGL c. 40, § 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board, or department, which is subject to a specific penalty.

- (2) Without intending to limit the generality of the foregoing, it is the intention of this provision that the following by-laws and sections of by-laws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections: each day on which any violation exists shall be deemed to be a separate offense.

**B. Board of Health: Smoking Regulations.**

- (1) Fine allowed: \$50.
- (2) Enforcement agent: Board of Health or Agent, Smoking Grant Coordinator, High School and Middle School Principals and Vice Principals, and DARE Officers.
- (3) Fine schedule: first offense, written warning; second offense, \$25; third and subsequent offenses, \$50.

**C. Building Inspector: Zoning violation fines.**

Type	Fine Amount
Sign	\$50
Missing or wrong house #	\$50
Unregistered vehicles	\$25
Illegal apartment	\$50
Earth removal	\$100
Other by-law violations	\$50
Work done without permit	Double permit fee

**ARTICLE III**

**Service on Permitting-Authority Bodies  
[Adopted 4-13-2021 ATM by Art. 9]**

**§ 1-3. Limitations on holding multiple board positions.**

No person who holds a position with a permitting-authority board or commission shall be eligible for appointment to another permitting-authority board or commission, unless they resign from the first position. For purposes of this bylaw, a permitting-authority board or commission shall mean any board or commission of the Town that has the authority to issue licenses, permits or approvals for any activity or use of land, including, but not limited to, the Select Board, Planning Board, Zoning Board of Appeals, Board of Health and Conservation



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Commission; provided, however, that nothing in this bylaw shall prevent any person from holding one or more elected positions with the Town, except as set forth in Chapter 68 of the Town's bylaws relative to the Select Board.

**§ 1-4. Existing positions.**

Any person holding appointed positions with more than one permitting-authority board or commission on the effective date of this bylaw may continue to hold those positions until the expiration of the earliest ending term and they shall thereafter be subject to § 1-3 of this bylaw.

**§ 1-5. Service through conclusion of public hearing.**

Any member appointed to a permitting-authority board or commission may continue to serve beyond the expiration of their term until the conclusion of any public hearing opened prior to the expiration of their term. In that case, the member's appointment shall be extended for purposes of that hearing only and it shall expire upon the closing of the public hearing.



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

#### **ARTICLE I Vacancies Due to Absence**

- § 7-1. Absences constituting vacancy.**
- § 7-2. Notification and filling of vacancy.**

#### **ARTICLE II Expiration of Certain Committees**

- § 7-3. Term of special committees.**
- § 7-4. Term of appointments.**

#### **ARTICLE III Finance Committee**

- § 7-5. Membership; term; Chair; voting requirements; term limitations.**
- § 7-6. Subcommittees.**
- § 7-7. Scope of authority.**
- § 7-8. Estimates of appropriations.**
- § 7-9. Reports for Annual Town Meeting.**
- § 7-10. Salaries and compensation.**
- § 7-11. Eligibility for office.**

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- § 7-12. Establishment and authority.**
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- § 7-14. Officers.**
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- § 7-31. Duties.**
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**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 4, §§ 4.1 to 4.5 and 4.7 to 4.9, of the 2015 Compilation. Amendments noted where applicable.]**

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## ARTICLE I

**Vacancies Due to Absence**

**§ 7-1. Absences constituting vacancy. [Amended 4-11-2023 ATM by Art. 15]**

The appointing authority for any appointed board, committee, or council may remove any member who is absent from three consecutive duly held meetings, unless one or more absences is excused by the Chair or Vice Chair in the case of the absences by the Chair.

**§ 7-2. Notification and filling of vacancy.**

The Chairman of any appointed agency shall notify the Town Clerk in writing with seven days of any vacancy occurring in such agency. The vacancy shall be filled within 14 days of such notification by the original appointing authority. Such appointments shall be for the unexpired term of the member being replaced.

## ARTICLE II

**Expiration of Certain Committees**

**§ 7-3. Term of special committees.**

All special committees shall report in writing to the next Annual Town Meeting unless ordered to report to a previous Special Town Meeting. All special committees shall be automatically dissolved at the adjournment of the next Annual Town Meeting unless the Town votes to extend the life of such committee.

**§ 7-4. Term of appointments.**

Unless otherwise provided for, all appointments to boards, committees, and commissions shall be concurrent with the municipal fiscal year.

## ARTICLE III

**Finance Committee****§ 7-5. Membership; term; Chair; voting requirements; term limitations.**

There shall be a Finance Committee of at least four, but not more than 11 members. The Town Administrator, in consultation with the Moderator and Finance Committee Chair, shall appoint members for a term of three years. The Town Administrator shall attempt to provide that the terms are properly staggered so that an equal number of seats expire annually. The members of the Finance Committee shall elect from their number a Chair. For voting purposes, the majority of the Committee shall be deemed to be a majority of the seats currently filled at any given time. However, at no time shall the Committee conduct business with less than four voting members present. No member of the Finance Committee shall hold office for more than four consecutive full terms or for a period not to exceed 12 consecutive years.

**§ 7-6. Subcommittees.**

The Finance Committee may appoint from its own membership such subcommittees as it may deem advisable.

**§ 7-7. Scope of authority.**

The Finance Committee shall have authority at any time to investigate the Town's accounts and the management of any department. The books, records and accounts of all departments of the Town shall be open to the inspection of the Finance Committee, or any of its authorized subcommittees, or any person authorized to act for said committees.

**§ 7-8. Estimates of appropriations.**

All officers, boards, committees and departments authorized to expend Town money shall transmit in writing to the Select Board their estimate of the appropriation necessary for the conduct of their business for the next fiscal year at least 75 days prior to the date of the Annual Town Meeting. At least 60 days prior to the date of the Annual Town Meeting, the Select Board shall assemble these requests in such form as the Finance Committee may reasonably request and submit them to the Finance Committee, and the officers, boards, departments, or committees authorized to expend Town money shall present to the Finance Committee, in writing, a detailed list of their expenditures during the previous year. At least 30 days prior to the date of the Annual Town Meeting, the Select Board and Finance Committee shall vote on their budget recommendations. Said votes shall be final and shall not be subject to change except by vote at the Annual Town Meeting.

**§ 7-9. Reports for Annual Town Meeting.**

The Finance Committee shall prepare a report for insertion in the warrant for the Annual Town Meeting. The report shall contain the Finance Committee's recommendations for Town Meeting action on all requested appropriations together with recommendations on other

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matters in the warrant as, in its judgment, should be brought to the attention of the Town. Reports to all other Town Meetings shall be in such forms as the Finance Committee shall deem advisable.

**§ 7-10. Salaries and compensation. [Amended 6-29-2020 ATM by Art. 11]**

The members of the Finance Committee may be reimbursed for actual expenses incurred in the discharge of their official duties.

**§ 7-11. Eligibility for office.**

Any registered voter of the Town shall be eligible for appointment to the Finance Committee or Council on Aging except that no elected or appointed Town officer or regular Town employee or person holding a position of financial responsibility for the Town shall be eligible for membership in such agency. No member of a special Town committee shall be authorized to vote as a member of such agency on any matter pertaining to the duties of a special committee of which he is a member.

ARTICLE IV

**Council on Aging<sup>1</sup>**

**[Amended 4-22-2019 ATM by Art. 31]**

**§ 7-12. Establishment and authority.**

There shall be a Council of Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in cooperation with programs of the Massachusetts Executive Office of Elder Affairs, as set forth in MGL c. 40, § 8B.

**§ 7-13. Membership; appointment; terms.**

The Town Administrator shall appoint a Council on Aging consisting of five members and two alternates. Upon the effective date of this by-law, the appointed incumbents serving at the time of adoption shall continue to serve for the remainder of their terms, unless the incumbent resigns or is removed prior to the end of their term, provided that the two most recent appointees shall be designated as the alternate members. Thereafter, the Town Administrator, in consultation with the Chair, or the Vice Chair if the Chair is up for reappointment, shall appoint members and alternates for three year terms. The members of the Council shall serve without pay.

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1. Editor's Note: See also the eligibility for office provisions in § 7-11 above.

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**§ 7-14. Officers.**

The Council on Aging shall hold an annual meeting in April of each year and shall elect from its membership a Chair, Vice Chair and Secretary. Each officer shall hold office until the next annual appointment.

**§ 7-15. Annual report.**

The Council shall prepare and submit an annual report of its activities to the Town and shall send a copy thereof to the Commission on Aging.

**§ 7-16. Employees.**

The Council may appoint such clerks and other employees as it may require.

**§ 7-17. Alternate members.**

The alternate members shall be appointed for three-year terms. The Chair, or Vice Chair if the Chair is absent, may designate an alternate to sit on the Council and participate and vote as a full member in the case of absence, inability to act or conflict of interest of any regular member, or in the event of a vacancy on the Council until the vacancy is filled.

**§ 7-18. Vacancies.**

Whenever a vacancy shall occur in the membership of the Council, by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled in accordance with the provisions of MGL c. 41, § 11. When an opening in the full membership occurs, an alternate may be considered for appointment to full membership and a replacement alternate may be appointed in accordance with the procedure set forth herein.

## ARTICLE V

**Commission on Disability****§ 7-19. Title and purpose.**

The name of this Commission is the Carver Commission on Disability.

- A. The purpose of the Committee is to coordinate or carry out programs in coordination with programs of the State Office of Handicapped Affairs in order to bring about full and equal participation in all aspects of life in the Town of Carver for all people with disabilities.
- B. The purpose of this by-law is to establish principles and procedures for the governance of this Committee.

**§ 7-20. Powers and duties.**

- A. Research local problems of people with disabilities.
- B. Coordinate the activities of other local groups organized to meet the needs of people with disabilities.
- C. Review and make recommendations about policies, procedures, services and activities of departments and agencies of the Town of Carver as they affect the people with disabilities.
- D. Work in cooperation with the departments and agencies of the Town of Carver to bring about maximum participation of people with disabilities.
- E. Initiate, monitor and promote legislation at the Town, state and federal level which advances the equal status of people with disabilities and ensure that appropriate regulations are adopted and enforced pursuant to such legislation.
- F. Encourage public awareness of disability issues.
- G. Provide information, referral, guidance and advice to individuals, businesses, organizations and public agencies in all matters pertaining to disability.
- H. Recruit and recommend prospective Committee members to the Town Administrator.
- I. File an annual report, which shall be printed in the Town Annual Report.
- J. Take such action as the Committee considers appropriate to ensure the equal status of persons with disabilities, or any other activity deemed appropriate.

**§ 7-21. Membership.**

- A. The Committee shall consist of seven members appointed annually by the Town Administrator. A majority of said Commission members shall consist of people with disabilities, one member shall be a member of the immediate family of a person with a disability and one member of said Commission shall be either an elected or appointed official of the Town. **[Amended 6-29-2020 ATM by Art. 12]**
- B. Resignations shall be made by notifying the Town Clerk in writing.
- C. The Town Administrator shall fill any vacancy for the remainder of the unexpired term in the same manner as an original appointment.
- D. The Chairperson or Vice Chairperson of the Committee shall receive the approval of the Committee prior to making statements or joining activities on behalf of the Committee.
- E. All members shall have full voting rights.
- F. There may be seven alternate members, who shall be appointed by the Town Administrator. In the event that an absence of a regular member creates a lack of a quorum at a meeting, an alternate member or members shall be eligible to participate



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and vote to the extent required to make up a quorum. **[Amended 6-29-2020 ATM by Art. 12]**

**§ 7-22. Officers.**

- A. The officers shall include a Chairperson, Vice Chairperson, Secretary and Treasurer.
- B. Officers shall be elected annually by a majority vote of the Committee at the first meeting after the Annual Town Election. **[Amended 6-29-2020 ATM by Art. 12]**
- C. Duties:
  - (1) The Chairperson shall:
    - (a) Develop the agenda in coordination with the other Committee members;
    - (b) Preside over all meetings;
    - (c) Appoint subcommittees as needed;
    - (d) Authorize expenditures as needed at the direction of the Committee. **[Amended 6-29-2020 ATM by Art. 12]**
  - (2) The Vice Chairperson shall perform all the functions of the Chairperson in his/her absence.
  - (3) The Secretary shall:
    - (a) Keep records of all meeting attendance, minutes, and correspondence;
    - (b) Post notice of all meetings 48 hours before each meeting at the Town Clerk's office.
  - (4) The Treasurer shall:
    - (a) Keep records of all financial matters;
    - (b) Develop a budget in coordination with the Committee;
    - (c) Prepare a financial statement for inclusion in the Town Annual Report.

**§ 7-23. Meetings.**

- A. Regular meetings shall be held at least six times a year, "at the call of the Chair or a quorum of the Committee."
- B. A quorum shall consist of four members. **[Amended 6-29-2020 ATM by Art. 12]**
- C. Meeting minutes will be amended and approved in the time required by the Open Meeting Law<sup>2</sup> and/or regulations promulgated pursuant thereto, as may be amended from time to time. **[Amended 6-29-2020 ATM by Art. 12]**

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2. Editor's Note: See MGL c. 30A, §§ 18 through 25.

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- D. Special meetings can be called by the Chairperson or by any three members.
- E. Decisions will be made by a quorum of those members present, unless where otherwise noted in these by-laws.
- F. Meetings shall adhere to Robert's Rules of Order "and shall make such other votes as are necessary to the conduct to its business."

## ARTICLE VI

**Capital Outlay Committee**  
**[Amended 4-11-2023 ATM by Art. 24]**

**§ 7-24. General powers.**

The Capital Outlay Committee shall review all requests and annually make a recommendation to the Select Board and Finance Committee for proposed capital expenditures and methods for financing the same. Capital budgeting requires significant advanced planning and review to ensure that projects/purchases are:

- A. Properly evaluated and scheduled.
- B. Appropriately funded.
- C. Prioritized in a way that is consistent with the Town of Carver financial policies.

**§ 7-25. Membership and appointment; terms.**

- A. There shall be a Capital Outlay Committee consisting of five members.
  - (1) One member shall be selected by the Select Board as its representative; such person may be from its own membership.
  - (2) One member shall be selected by the School Committee as its representative; such person may be from its own membership.
  - (3) One member shall be selected from the Finance Committee as its representative; such person shall be from its own membership; provided, however, that the Chair of the Finance Committee shall not be eligible for appointment to the Capital Outlay Committee.
  - (4) Two members shall be selected by the Town Administrator, who shall be registered voters of the Town.
- B. The term of office shall be three years; provided, however, that term of the Select Board, School Committee and Finance Committee representatives shall automatically terminate when they are no longer members of the Board or Committee that appointed them. In that case, the appointing Board or Committee may fill the remaining term of the vacated seat with another of its members.
- C. The Capital Outlay Committee shall designate a Chair annually at a public meeting held after July 1.

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- D. The Capital Outlay Committee shall provide a report of all matters presented to it for recommendation at least once per calendar year and whenever requested by the Chair of the Finance Committee or when requested by either Committee.

**§ 7-26. Purpose.**

Purpose: To provide guidelines for the approval, review and prioritization of capital expenditures within the Town of Carver's ten-year budget plan and ensure that all capital expenditures are properly planned, funded, monitored and accounted for.

**§ 7-27. Scope.**

- A. The Capital Outlay Committee shall review all requests for capital expenditures of \$20,000 or more and has a useful life greater than one year. For all the smaller projects or equipment, requests should be included in the department's operating budget. This includes projects that are fully or partially funded by outside funding sources, such as a grant. This shall not apply to reserve fund transfer requests made to the Finance Committee that falls within their available reserve fund account or emergency expenditures. All requests shall be submitted in a format approved by the Capital Outlay Committee prior to insertion of the request on a Town Meeting warrant or, if the request is made by citizen petition, before the Town Meeting is convened.
- B. It is further understood that the Capital Outlay Committee is an advisory committee to the Select Board and does not have the authority to override any decision made by the Select Board should said Board disagree with the recommendations of the Capital Outlay Committee.

**§ 7-28. Submission and processing of requests; examples.**

- A. All officers, boards, committees and departments requesting capital improvements for the following fiscal year shall transmit in writing to the Select Board their request at least 75 days prior to the date of the Annual Town Meeting. At least 60 days prior to the date of the Annual Town Meeting, the Select Board shall assemble these requests and submit them to the Capital Outlay Committee. At least 30 days prior to the date of the Annual Town Meeting, the Select Board, Finance Committee and Capital Planning Committee shall vote on their capital budget recommendations for the following fiscal year. Said votes shall be final and shall not be subject to change except by vote at the Annual Town Meeting.
- B. Capital examples:
- (1) New constructions (new building or major addition).
  - (2) Building improvements, renovations, remodeling or demolition.
  - (3) Equipment purchases.
  - (4) Architectural or interior design work.
  - (5) HVAC projects or energy consumption.

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- (6) Land improvements.
- (7) Real estate acquisition or leasing.
- (8) Vehicle leasing and purchasing.
- (9) Information technology and telecom (software and hardware).
- (10) New or replacement of furniture and fixtures.

**§ 7-29. Supersession of prior by-laws.**

This by-law shall supersede all previous votes of Town Meeting pertaining to the Capital Outlay Committee.

**ARTICLE VII**

**Community Preservation Committee**

**§ 7-30. Establishment; membership; terms.**

- A. There is hereby established a Community Preservation Committee, consisting of nine voting members pursuant to MGL c. 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members shall be as follows:
  - (1) One member of the Conservation Commission as designated by the Commission for a term of three years;
  - (2) One member of the Historical Commission as designated by the Commission for term of three years;
  - (3) One member of the Planning Board as designated by the Board for a term of three years;
  - (4) One member of the Recreation Committee as designated by the Select Board for an initial term of one year and thereafter for a term of three years;
  - (5) One member of the Housing Authority as designated by the Authority for an initial term of two years and thereafter for a term of three years;
  - (6) And four members to be appointed by the Select Board, two members to be appointed for a term of one year and thereafter for a term of three years, and two members to be appointed for a term of two years and thereafter for a term of three years.
- B. Should any of the commissions, boards, authorities, or committees who have appointing authority under this by-law be no longer in existence for whatever reason, the appointment authority for that commission, board, authority, or committee shall become the responsibility of the Select Board.
- C. Any member of the Committee may be removed for cause by their respective appointing authority after a hearing.

**§ 7-31. Duties.**

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

**§ 7-32. 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.

**§ 7-33. Amendments.**

This article may be amended from time to time by majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL c. 44B.

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**§ 7-34. Severability.**

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

**§ 7-35. Effective date.**

Provided that the Community Preservation Act is accepted by the voters at the 2006 Annual Town Election, this by-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of MGL Chapter 40, Section 32, have been met.

**§ 7-36. Application deadline for exemption.**

The application deadline for exemption from the surcharge shall be the same as for personal exemption applications, 90 days following the issuance of the actual tax bill.

**ARTICLE VIII****Carver Municipal Affordable Housing Trust Fund****§ 7-37. Authority; establishment.**

Pursuant to the authority of Chapter 491 of Legislative Acts of 2004<sup>3</sup> and the Town of Carver Home Rule Charter, there is hereby created a local municipal affordable housing trust fund to be known as the "Carver Municipal Affordable Housing Trust Fund" (hereinafter, "Trust Fund").

**§ 7-38. Purposes.**

The purpose of the Trust Fund shall be:

- A. To receive, hold, invest, and/or expend funds for the acquisition, rehabilitation, renovation, construction, financing or refinancing of property within the Town of Carver so that such property will be substantially available as residential property for low- and moderate-income persons and to further provide mechanisms to ensure such use; and
- B. To utilize funds for temporary consulting services that allow the Town of Carver to provide or preserve real property in the Town so that such property will be substantially available as residential property for low- and moderate-income persons and to further provide mechanisms to ensure such use.

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3. Editor's Note: See MGL c. 44, § 55C.

**§ 7-39. Composition.**

The Trust Fund shall have five Trustees at all times. One member shall be ex officio, chosen from the Carver Select Board, and one member shall represent the Carver Housing Authority. The three remaining Trustees shall be appointed by the Select Board. In making the appointments, the Select Board shall endeavor to provide a broad-based membership, including legal, banking, financial and real estate professionals, other members of the local business community, affordable housing advocates, and other interested residents.

**§ 7-40. Term of office.**

Each Trustee shall serve for a term of two years; however, commencing at the initial creation of the Board, two members shall be appointed for a one-year term and three members shall be appointed for a two-year term.

**§ 7-41. Organization.**

The Trustees shall annually elect one Trustee who shall not be the Select Board member to serve as Chairperson. The Chairperson may establish subcommittees and/or ad hoc, task-related committees to carry out the purposes of the Trust Fund. Chairpersons of the subcommittees may be selected by the members of the subcommittees.

**§ 7-42. Filling of vacancies.**

In the event of a vacancy in the position of Trustee, the appointment shall be made in the same manner as the original appointment.

**§ 7-43. Meetings, quorum.**

Meetings of the Trust Fund shall be held on a regular basis. Special meetings may be called by the Chairperson or by any two Trustees. Notice of any meeting of the Trust Fund shall be filed with the Town Clerk and posted in accordance with Massachusetts General Laws Chapter 39, § 23, the Open Meeting Law.<sup>4</sup> Three Trustees shall constitute a quorum but a majority vote of the full membership shall be required to approve any motion.

**§ 7-44. Powers and duties.**

The Carver Municipal Affordable Housing Trust Fund shall have the responsibility to support the construction and preservation of affordable housing in order to secure rental and home ownership opportunities for our community's low- and moderate-income individuals and families in the future. The Trust Fund shall have the powers and duties specified in Chapter 491 of the Legislative Acts of 2004,<sup>5</sup> provided that it shall have no ability to borrow money,

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4. Editor's Note: See now MGL c. 30A, §§ 18 through 25.

5. Editor's Note: See MGL c. 44, § 55C.

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or mortgage or pledge trust assets without prior Select Board approval. It shall have the following additional powers and duties:

- A. To establish criteria and/or qualifications for recipients and expenditures in accordance with the Trust Fund's above-stated purposes.
- B. To employ consultants and full or part-time staff, to contract for administrative and support goods and services, and to expend up to 10% of the Trust Fund's receipts for these purposes.

**§ 7-45. Treasurer-collector as custodian.**

The Town of Carver Treasurer-Collector shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds. He or she shall invest the funds in the manner authorized by MGL c. 44, §§ 55, 55A and 55B. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust.



## Chapter 16

### FINANCES

#### ARTICLE I Revolving Funds

**§ 16-1. Funds established.**

**§ 16-2. Expenditures.**

#### ARTICLE II Municipal Charges

**§ 16-3. Due dates and interest charges.**

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

#### ARTICLE I Revolving Funds [Adopted 4-11-2017 ATM by Art. 9 (Sec. 10.6 of the 2015 Compilation)]

**§ 16-1. Funds established. [Amended 4-22-2019 ATM by Art. 9]**

There are hereby established in the Town of Carver, pursuant to the provisions of MGL c. 44, § 53E 1/2, the following revolving funds:

<b>Revolving Fund</b>	<b>Department, Board, Committee, Commission Authorized to Spend from Fund</b>	<b>Fees, Charges or Other Receipts Credited to Fund</b>	<b>Program or Activity Expenses Payable from Fund</b>	<b>Restrictions or Conditions on Expenses Payable from Fund</b>
Library Fines and Passports	Library Director	Overdue fines, damaged/lost books levies and passport revenues	Purchasing library materials	Salaries or wages of full-time employees shall be paid from the annual budget appropriation of the Library Dept. and not from the fund
Council on Aging Nutrition	COA Director	Receipts from the lunch Meals on Wheels programs, and any other COA sponsored meal functions	Lunches, Meals on Wheels programs, and other COA sponsored meal functions	Salaries or wages of full-time employees shall be paid from the annual budget appropriation of the COA Dept. and not from the fund
Earth Removal Fees	Earth Removal Committee	Fees collected for earth removal inspections	Making road repairs	
Fire Dept. Revolving Acct. for Fire Prevention/Code Enforcement	Fire Chief	Revenue and reimbursable incidents allowed under MGL c. 21E involving hazardous materials releases	Replace, repair or purchase equipment and supplies and to fund administrative and firefighter wage expenses associated with Fire Prevention/Code Enforcement	

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<b>Revolving Fund</b>	<b>Department, Board, Committee, Commission Authorized to Spend from Fund</b>	<b>Fees, Charges or Other Receipts Credited to Fund</b>	<b>Program or Activity Expenses Payable from Fund</b>	<b>Restrictions or Conditions on Expenses Payable from Fund</b>
Recreation Committee	Recreation Committee	Funds from services provided to Town residents for recreation activities	Services provided to Town residents for recreation activities	Salaries or wages of full-time employees shall be paid from the annual budget appropriation of the Recreation Dept. and not from the fund
Solar Net Metering Credits	Select Board	Funds from Eversource net metering revenue	Payments to Fisher Road solar for electricity generated and payment for installation of energy-efficient and/or LED light upgrades on Town-owned properties and electric charges	

**§ 16-2. Expenditures.**

Expenditures from each revolving fund set forth herein shall be subject to the spending limits established by Town Meeting or any increase therein as may be authorized in accordance with MGL c. 44, § 53E 1/2.

**ARTICLE II****Municipal Charges**

**[Adopted 4-11-2017 ATM by Art. 9 (Sec. 10.7 of the 2015 Compilation)]**

**§ 16-3. Due dates and interest charges.**

All municipal charges and bills shall be due and payable within 30 days of the date of mailing by the Treasurer/Collector or other Town official empowered to do so. All receivables which remain unpaid after said 30 days shall accrue interest payable to the Town at the rate charged on tax bills under provisions of MGL c. 59, § 57.

## **Chapter 45**

### **OFFICERS AND EMPLOYEES**

#### **ARTICLE I** **Moderator**

**§ 45-1. Term; statutory authority.**

**§ 45-2. Powers and duties.**

#### **ARTICLE II** **Administrator**

**§ 45-3. Purpose.**

**§ 45-4. Summary.**

**§ 45-5. Job description.**

**§ 45-6. Powers and duties.**

**§ 45-7. Construal of provisions.**

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

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#### **ARTICLE I** **Moderator** **[Adopted as Ch. 2, § 2.1, of the 2015 Compilation]**

**§ 45-1. Term; statutory authority.**

The Moderator shall be elected for three years, the name to appear on the official ballot. He shall serve in accordance with the provisions of MGL c. 39, § 14.

**§ 45-2. Powers and duties.**

The powers and duties of the Moderator not especially provided by by-law shall be determined by rules of practice as contained within Robert's Rules of Order as far as they are adapted to the conditions and powers of the Town.

#### **ARTICLE II** **Administrator** **[Adopted as Ch. 3 of the 2015 Compilation]**

**§ 45-3. Purpose.**

To establish and define the position of Town Administrator.

**§ 45-4. Summary.**

The Town Administrator, reporting directly to the Select Board, shall be the administrative officer for the Town of Carver and shall act as agent for the Select Board in overseeing the day-to-day operation of the Town's general government.

**§ 45-5. Job description.****A. Appointment. [Amended 4-12-2022 ATM by Art. 28]**

- (1) The Select Board shall appoint a Town Administrator from a list prepared by a screening committee. The Screening Committee shall be appointed by the Select Board for the purpose of identifying qualified candidates for the position. Whenever the office of Town Administrator is vacant or about to become vacant, the Select Board shall convene said Search Committee and establish rules and regulations for its work, including but not limited to the number of members who will serve and when its work is to be completed.
- (2) The Select Board shall appoint the Town Administrator to serve for a term not to exceed five years and shall fix compensation for such person, annually, within the amount appropriated by the Town. At no time shall a contract be more than five years; provided, however, that a contract of five years or less may be renewed for subsequent terms of five years or less by vote of the Select Board only in the last year of the contract.
- (3) The Town Administrator shall be appointed on the basis of educational, executive, and administrative qualifications and experience.
- (4) Whenever the office of Town Administrator is vacant or about to become vacant, the Select Board may appoint an Interim Town Administrator for an initial period not to exceed six months. The Select Board may then appoint an Interim Town Administrator for successive periods as it deems necessary. The appointment of an Interim Town Administrator is not subject to the Screening Committee requirement set forth in Subsection A(1) of this section.

**B. Qualifications.**

- (1) The educational qualifications shall consist of a master's degree, preferably in public or business administration, granted by an accredited degree-granting college or university. The professional experience shall include at least three years of prior full-time compensated executive service in public or business administration; or
- (2) Five years or more of such professional experience and a bachelor's degree in an appropriate discipline shall qualify any applicant.
- (3) A proven ability to relate to a variety of constituencies, included but not limited to Town elected and appointed officials, committees and boards and the general public.
- (4) Demonstrated ability and experience with computers, in particular databases, spreadsheets and word processing.

**C. Conditions.**

- (1) A Town Administrator need not be a resident of the Town or of the commonwealth at the time of appointment, nor at any time during the period of such service.

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- (2) The Town Administrator shall not have served in an elective office in the Town government for at least 12 months prior to appointment.
- (3) The Town may from time to time establish, by by-law, such additional qualifications as seem necessary and appropriate.
- (4) The Town Administrator shall devote full time to the office and shall not hold any other public office, elected or appointive, nor engage in any business or occupation during such service, unless such action is approved in advance by the Select Board.
- (5) The Select Board shall provide for an annual review of the job performance of the Town Administrator, which shall, at least in summary form, be a public record.

**§ 45-6. Powers and duties.**

The Town Administrator shall be the chief administrative officer of the Town, directly responsible to the Select Board for the administration of all Town affairs for which the offices of Town Administrator is given responsibility by or under this by-law. The powers and duties of the Town Administrator as in regard to the Police Department and the Fire Department shall be in accordance with MGL c. 41, § 97A, and MGL c. 48, § 42, both having been accepted by the Town of Carver. The powers and duties of the Town Administrator shall include, but are not intended to be limited to, the following:

**A. Appointment duties:**

- (1) To appoint officers, members of boards and commissions as provided by by-law. Copies of the notices of all such proposed appointments shall be posted on the Town bulletin board when submitted to the Select Board. Such appointments shall become effective on the 15th day following the day on which such notice of the appointment is filed with the Select Board, unless the Select Board shall, within that period by a majority of all of its members, vote to reject such appointment, or has sooner voted to affirm it.
- (2) The Town Administrator shall also appoint, on the basis of merit and fairness alone, and except as may otherwise be provided by general law or collective bargaining agreements:
  - (a) All Town employees, including secretarial and clerical personnel; part-time or full-time, in consultation with the elected or appointed Town officials to whom said employees report;
  - (b) All employees of appointed Town multimember bodies;
  - (c) One or more inspectors; and
  - (d) All other full-time, part-time or seasonal employees, except those of the Police and call Fire Departments and the School Committee.

**B. Financial management duties:**

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- (1) To assure that full and complete records of the financial and administrative activities of the Town are kept and to render as often as may be required by the Select Board, but not less than once a year, a full report of all Town administrative operations during the period reported on, which shall be made available to the public.
- (2) To prepare and present an annual operating budget for the Town and present a capital improvement plan prepared by the Capital Outlay Committee for the five fiscal years next ensuing.
- (3) To be the chief procurement officer for the Town, in accordance with the provisions of MGL c. 30B, and to appoint such assistant procurement officers as provided in MGL c. 30B.
- (4) Inspect and submit warrants for payment to the Select Board.

## C. Personnel management duties:

- (1) To be entrusted with the administration of the Town personnel system, including, but not limited to, personnel policies and procedures, rules, and regulations, including provisions for an annual employee performance review, personnel by-law and collective bargaining agreements entered into by the Town.
- (2) The Town Administrator shall also prepare and keep current a plan establishing the personnel staffing requirements for each Town agency, except the School Department.
- (3) To negotiate, on behalf of the Select Board, all contracts and collective bargaining agreements involving any subject within the jurisdiction of the office of the Town Administrator, including contracts with Town employees, except employees of the School Department, involving wages, hours and other terms and conditions of employment. All such contracts and agreements shall be subject to the approval of the Select Board.

## D. Administrative duties:

- (1) To supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of Town Administrator is given authority, responsibility or control by this by-law.
- (2) To attend all regular and special meetings of the Select Board, unless unavoidable for reasonable cause, and shall have a voice, but not vote, in all of its proceedings.
- (3) To keep the Select Board fully advised as to the needs of the Town and recommend to the Select Board and to other elected Town officers and agencies for adoption such measures requiring action by them or by the Town Meeting as the Town Administrator may deem necessary or expedient.
- (4) The Town Administrator shall be responsible for the maintenance and repair, rental and use, of all Town buildings and facilities placed under the Town Administrator's control by this by-law, by vote of the Town or otherwise.

- (5) To assure that a full and complete inventory of all property of the Town, both real and personal, is kept, including all property under the control of the School Committee.
- (6) To see that the provisions of the General Laws, Town By-Laws and other votes of the Town Meeting and votes of the Select Board which require enforcement by Town Administrator are faithfully executed.
- (7) Keep records of his activities and render a full report to the Select Board when required.
- (8) To coordinate the activities of all Town agencies serving under the office of the Town Administrator and the office of the Select Board with those under the control of other officers and multiple-member bodies elected directly by the voters. For this purpose the Town Administrator shall have authority to require the persons so elected, or their representatives, to meet with the Town Administrator, at reasonable times, for the purpose of effecting coordination and cooperation among all agencies of the Town. The Town Administrator shall have the right to attend and speak at any regular meeting of any multiple-member body.
- (9) To seek and review by initiative or upon request of any Town officer, those state, federal, regional and all other grants which may be of benefit to the Town of Carver. The Town Administrator shall be the authority responsible for the reviewing and completing all applications for such grants, except as otherwise authorized by statutes. Once drafted, all grant applications shall be submitted to the Select Board for its approval and signature.
- (10) To be responsible for any and all dispositions of noncriminal citations issued in the Town of Carver. The Town Administrator will be responsible for assigning one or more assistant clerks as required.
- (11) To be responsible for the publication, maintenance and review of the Town by-Laws and of any duly authorized revisions, amendments, additions, or other changes pertaining thereto. Subsequent to enactment by the Town Meeting, copies of the revised by-laws shall be forwarded to the Attorney General of the Commonwealth for approval, and they shall be otherwise published, all as required by General Laws. Copies of the revised by-laws shall be made available for distribution to the public.
- (12) To attend all sessions of all Town Meetings and answer questions raised by voters which relate to warrant articles and to matters over which the Town Administrator exercises any supervision.
- (13) To inquire, at any time, into the conduct and operation of office or performance of duties of any officer of employee, department, board, commission or other Town agency.
- (14) Receive and address citizen complaints and needs.

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- (15) To perform any other duties as are required to be performed by the Town Administrator by by-law, administrative code, votes of the Town Meeting or votes of the Select Board, or otherwise.

**§ 45-7. Construal of provisions.**

To the extent that the provisions of this by-law modify or repeal existing by-laws of the Town of Carver, this by-law shall govern.



## Chapter 51

### PERSONNEL

**§ 51-1. Purposes and authorization.****§ 51-2. Application.****§ 51-3. Select Board.****§ 51-4. Town administrator.****§ 51-5. Personnel system.****§ 51-6. Adoptions and amendment of personnel policies.****§ 51-7. Severability.****§ 51-8. Effective date.****§ 51-9. Miscellaneous provisions.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 5 of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 51-1. Purposes and authorization.**

The purpose of the Personnel By-law is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensures a uniform, fair and efficient application of personnel policies. This by-law is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and MGL c. 41, §§ 108A and 108C.

**§ 51-2. Application.**

All Town departments and positions shall be subject to the provisions of this by-law except elected officers, employees with personal contracts, and employees of the school department. All personal contracts with any nonunion personnel must be approved by the Select Board.

**§ 51-3. Select Board.**

The Board shall be responsible for promulgating policies and procedures regarding the establishment and maintenance of a personnel system based on merit principles, the classification and reclassification of positions, an annual compensation plan, and the development of personnel policies pursuant to § 51-5 of this by-law.

**§ 51-4. Town administrator.**

Pursuant to Chapter 177 of the Acts of 1995, the Town Administrator is entrusted with the administration of the Town personnel system, including, but not limited to, personnel policies and procedures, rules and regulations, including provisions for an annual employee performance review, personnel by-law and collective bargaining agreements entered into by the Town. The Town Administrator shall also be responsible for establishing a central recordkeeping system compliant with applicable federal, state, and local by-laws as well as any collective bargaining provisions.

**§ 51-5. Personnel system.**

A personnel system shall be established by promulgation of policies pursuant to § 51-6 and consistent with Chapter 177 of the Acts of 1995. The personnel system shall make use of current concepts of personnel management and shall include but not be limited to the following elements:

- A. Method of administration. A system of administration which assigns specific responsibility for all elements of the personnel system, including maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of personnel policies and periodic reviews, and evaluating the personnel system.
- B. Classification plan. A position classification plan for all employees subject to this by-law shall be established, based on similarity of duties performed and the responsibilities assumed so that the same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same class.
- C. Compensation plan. A compensation plan for all positions subject to this by-law shall consist of:
  - (1) A schedule of pay grades, including minimum, maximum and intermediate rates for each grade; and
  - (2) An official list indicating the assignment of each position to specific pay grades.
- D. Recruitment and selection policy. A recruitment, employment, promotion and transfer policy which ensures that reasonable effort is made to attract qualified persons and that selection criteria are job-related.
- E. Personnel Records. A centralized recordkeeping system which maintains essential personnel records.
- F. Personnel policies. A series of personnel policies which establish the rights, the benefits to which personnel employed by the Town are entitled and the obligation of said employees to the Town.
- G. Other elements. Other elements of a personnel system as deemed appropriate or required by law.

**§ 51-6. Adoptions and amendment of personnel policies.**

The Select Board shall promulgate personnel policies defining the rights, benefits, and obligations of employees subject to this by-law. Policies shall be adopted or amended as follows:

- A. Preparation of policies. The Town Administrator shall prepare policies or amendments to policies. Any member of the Select Board, Finance Committee, any three employees, or the Town Administrator may suggest policies for consideration by the Board. The Board need not consider any proposal already considered in the preceding 12 months. Any person proposing a new or amended policy shall provide the substance and the reason for the proposed policy to the Board in writing. The Board shall hold a public

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hearing on any proposed policies or amendments. Any proposed policies or amendments shall be posted at least five days prior to the public hearing in prominent work locations; copies of all proposals shall be provided to representatives of each employee collective bargaining unit.

- B. Public hearing. The Select Board shall consider the proposed policy(ies) or policy amendments at the public hearing. Any person may attend the hearing, speak, and present information. At the conclusion of the public hearing the Board may vote to adopt the policies (with or without modification), reject the policies, or indicate that further study is necessary. Failure of the Select Board to vote on the proposal within 30 calendar days shall be deemed a rejection of the proposed policy(ies).

**§ 51-7. Severability.**

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

**§ 51-8. Effective date.**

This by-law shall take effect on July 1, 1999. Personnel policies existing prior to said date will remain in effect for at least 60 days from said date and until promulgation of new policies.

**§ 51-9. Miscellaneous provisions.**

- A. Any permanent full-time position proposed to be added to the municipal budget shall be put forth to an Annual or Special Town Meeting in the form of a warrant article. This section shall not supersede any requirements of any state or federal program or grants under which said funds may be expended without appropriation.
- B. Notwithstanding the provisions of Massachusetts General Laws Chapter 32B, part-time elected officials of the Town of Carver who receive a stipend shall not be eligible for participation in the Town's contributory health and life insurance benefit plan, except that those part-time elected officials who were elected prior to April of 1998 and currently participate in the plan are eligible to continue until the end of their current term. Part-time elected officials who receive a stipend who pay the full monthly cost to the Town, plus any administrative costs that may be assessed by the Select Board, may be deemed eligible to participate.



## **Chapter 60**

### **REPORTS AND RECORDS**

#### **§ 60-1. Annual Town Report.**

#### **§ 60-2. Valuation list.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 10, §§ 10.1 and 10.2, of the 2015 Compilation. Amendments noted where applicable.]**

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#### **§ 60-1. Annual Town Report.**

All Town Meeting proceedings and results of all elections shall be included in the Annual Town Report.

#### **§ 60-2. Valuation list.**

Valuation lists for the Town of Carver shall be published every five years unless otherwise voted by the Town.



## **Chapter 68**

### **SELECT BOARD**

**§ 68-1. Membership and terms.**

**§ 68-2. Authority to settle lawsuits.**

**§ 68-3. Transmission of warrant to Finance Committee.**

**§ 68-4. Inspector of Wires.**

**§ 68-5. Special Town Meeting notice.**

**§ 68-6. Disposal of surplus personal property.**

**§ 68-7. Meetings of boards, commissions, committees and departments.**

**§ 68-8. Holding other offices.**

**§ 68-9. Restriction on appointment authority.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 2, § 2.2, of the 2015 Compilation; amended 4-22-2019 ATM by Art. 13. Subsequent amendments noted where applicable.]**

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**§ 68-1. Membership and terms.**

There shall be a Select Board composed of five members elected for terms of three years each, so arranged that the term of as nearly equal number of members as is possible shall expire each year.

**§ 68-2. Authority to settle lawsuits.**

The Select Board shall have all the powers and duties of a Board of Selectmen for purposes of the General Laws and any special acts applicable to the Town of Carver, including but not limited to the power to prosecute, compromise or defend suits for or against the Town and employ counsel at any time if, in its judgment, the interest of the Town so require.

**§ 68-3. Transmission of warrant to Finance Committee.**

It shall be the duty of the Select Board to transmit a copy of any warrant for any regular or special Town Meeting to the Finance Committee as soon as said warrant is drawn.

**§ 68-4. Inspector of Wires.**

The Town Administrator shall appoint an Inspector of Wires.

**§ 68-5. Special Town Meeting notice.**

The Select Board shall notify all department heads and all committees appointed or elected by the Town of any Special Town Meeting at least seven days prior to the posting of the warrant for said meeting, except in case of emergency as determined by the Select Board.

**§ 68-6. Disposal of surplus personal property.**

Any committee, board, officer or department having control of Town property other than real property shall notify the Select Board whenever any of such property becomes obsolete or in excess of the needs of that agency. The Select Board shall establish a procedure to make any such property available to other Town agencies that may be able to use it. Any items of property which in the opinion of the Select Board have a value of \$500 or less and which are not transferred to other Town agencies by such procedure shall be disposed of by the Select Board by public sale following notice.

**§ 68-7. Meetings of boards, commissions, committees and departments.**

In order to coordinate the business of the Town, the Select Board shall have the authority to call a meeting of all boards, commissions, committees and departments of the Town as the Board deems in the best interest of the Town. Each board, commission, committee and department shall have at least one duly authorized representative present for such meeting, who shall be prepared to submit a progress report and to answer any questions from board, commission, committee or department heads as well as from the Select Board.

**§ 68-8. Holding other offices.**

A Select Board member may not hold any other elective or compensated office under government of the Town of Carver during the term, for which he/she is elected, nor any compensative appointive Town office or employment for one year thereafter. Also, that any member of the Select Board serving in such capacity at the time of adoption of this section shall not be required to resign from any other position held and shall be allowed to complete his/her term of office on the Board.

**§ 68-9. Restriction on appointment authority.**

In exercising its authority in making appoints to the various offices, boards, commissions and committees within its jurisdiction, the Select Board will honor the will of the voters and will endeavor to avoid appointing anyone to a position who ran for but was not elected to that position within one year prior to the date of the appointment.



## Chapter 76

### TOWN ELECTIONS AND MEETINGS

**§ 76-1. Town elections and Town meetings.**

**§ 76-2. Town Meeting warrants.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 1 of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 76-1. Town elections and Town meetings.**

- A. The Annual Town Meeting shall be held for the transaction of municipal business in the month of April, May or June on a weekday to be set by the Select Board, and the Election of Officers on the fourth Saturday in April at 8:00 o'clock a.m. The polls shall be open until 6:00 p.m.
- B. Seventy-five qualified voters shall be necessary to constitute a quorum at any Town Meeting, including Special Town Meetings; provided, however, that 150 qualified voters shall be necessary to constitute a quorum to vote on any motion proposing the borrowing of money for any purpose and provided, also, that a number less than a quorum may from time to time adjourn the same. **[Amended 4-11-2023 ATM by Art. 16]**
- C. All articles in the warrant shall be taken up in order of their arrangement unless otherwise ordered by two-thirds vote.
- D. No motion to adjourn without day shall be in order until all articles in the warrant have been acted upon.
- E. The checklist shall be used in admitting voters to a Town Meeting, except that nonvoters may be admitted to a defined and separate portion thereof, and nonvoters may address the meeting if the Town so votes.
- F. The articles to be acted upon at the Annual Town Meeting shall be submitted to the Select Board at a date determined by the Board.
- G. No authority or commission shall be created at any meeting of the Town unless each registered voter has been informed in writing at least seven days before the meeting of the full powers of such authority or commission and the manner of dissolving same, once formed.
- H. To be debatable, any motion must be seconded and any main motion or motion to amend must be in writing and given to the Moderator before the maker may speak on the subject of the motion. The maker of the motion will be recognized to begin the debate when recognized by the Moderator, unless the Moderator determines that some other person should be recognized first. **[Added 4-22-2019 ATM by Art. 1]**
- I. For warrant articles involving the expenditure of money, including transfers from available funds and borrowing, if a specific sum is stated in the warrant with the words

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"not to exceed," no motion that exceeds the amount stated in the warrant shall be in order. If a specific amount is stated in the warrant but does not contain the words "not to exceed," an amendment will be in order if it is ruled as being within the scope of the article by the Moderator and is approved by a two-thirds vote. **[Added 4-22-2019 ATM by Art. 1]**

- J. Unless physically unable to do so, any person wishing to address the meeting should rise and get in line with others behind a designated microphone. Those physically unable to approach a microphone should raise their hand to signify to the Moderator that they wish to speak and a portable microphone will be brought to the voter where they are sitting. Members will be called upon in the order they rise. If the Moderator is unable to determine the order, she/he will use their discretion. **[Added 4-22-2019 ATM by Art. 1]**
- K. All speakers shall address their remarks through the moderator and may only address others through the Moderator. No person shall speak more than twice in debate on any question and no person shall speak more than three minutes at any one time without leave of the Moderator or unless they have obtained the consent of Town Meeting, which can be granted with a motion to extend the limits of debate which requires a two-thirds vote without debate. No person shall speak a second time on an issue unless everyone who wishes to speak has been given an opportunity to do so once. Rights in regard to debate are not transferable. A board or committee chair, member, or representative and other Town officials are not considered to be in debate when giving a report or presentation authorized by the Moderator, or answering questions directed through the Moderator; however, such individuals are bound by the rules of debate when speaking further on the question. Notwithstanding the provisions of this subsection, the Moderator may recognize any voter who has a question concerning the matter pending before the meeting or Town meeting procedures. **[Added 4-22-2019 ATM by Art. 1]**
- L. The Moderator may announce a vote as it appears by the sound of voices, including votes requiring a two-thirds majority. If the Moderator is in doubt or if the declared vote is immediately questioned by at least seven voters, the Moderator shall order a hand count. **[Added 4-22-2019 ATM by Art. 1]**
- M. The vote on any motion may be taken by secret ballot if requested moved seconded and approved by the majority of the voters present. **[Added 4-22-2019 ATM by Art. 1]**
- N. Any voter may move to reconsider the vote on any warrant article prior to adjournment of the meeting, but reconsideration can only be moved once and must be approved by a two-thirds vote. **[Added 4-22-2019 ATM by Art. 1]**

#### **§ 76-2. Town Meeting warrants.**

- A. The Town warrant shall be posted at least seven days preceding the date of the Town Meeting in the Town House, at each post office and fire station in the Town, and at such other locations as may be designated by the Select Board.

# **PART II**

## **GENERAL LEGISLATION**



## Chapter 103

### ALARM SYSTEMS

**§ 103-1. Applicability.****§ 103-4. Penalties.****§ 103-2. Definitions.****§ 103-5. Severability.****§ 103-3. Control and curtailment of signals emitted by alarm systems.****§ 103-6. Town property.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 6, § 6.5, of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 103-1. Applicability.**

Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion to a premises or an attempted robbery at a premises are specifically excluded from the provisions of this by-law. The provisions of Section 7.5.1.3.<sup>1</sup> of this by-law shall apply to all users.

**§ 103-2. Definitions.**

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

**BURGLAR ALARM SYSTEM** — An assembly of equipment and devices or a single device such as, but not limited to, a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

**FALSE ALARM**

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents.
- B. Any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery or burglary, or attempted threat.

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**1. Editor's Note: So in original; this section did not exist in the original by-law.**

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- C. For the purposes of this definition, activation of alarm systems by acts of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm.

**§ 103-3. Control and curtailment of signals emitted by alarm systems.**

- A. Every alarm user shall submit to the Police Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of said premises to immediately notify the Carver Police Department of any changes in the list of authorized employees so named in the business listing to respond to alarms.
- B. All alarm systems installed after the effective date of this by-law which use an audible horn, bell, or device shall be installed with a device that will shut off such bell, horn or device within 15 minutes after activation of the alarm system. All existing alarm systems in the Town of Carver must have a shutoff device installed within six months of the passage of this by-law.
- C. Any alarm system emitting a continuous and uninterrupted signal for more than 15 minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under Subsection A of this section and which disturb the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located shall constitute a public nuisance.
- D. No alarm system, which is designated to transmit emergency messages or signals of intrusion to the police Department, will be tested until the Police dispatcher has been notified.
- E. All alarm systems which are designed to transmit emergency messages or signals of intrusion to the Police Department will be of a type approved by the Police Chief.
- F. There will be an annual \$25 fee for each alarm plugged into the Police Station. This fee is aside from any penalties that might occur.

**§ 103-4. Penalties.**

- A. The user shall be assessed \$25 as a false alarm service fee for each false alarm in excess of three occurring within a calendar year. The Police Chief shall notify the alarm user either by certified mail or by service in hand by a police officer of such violation. Fines shall be paid in accordance with applicable state and local law.
- B. The owner of a system which occasions six or more false alarms within a calendar year, and/or installer who is not in conformance with this by-law, may be ordered to disconnect and otherwise discontinue the use of the same by the Select Board.
- C. Any user, owner or installer found to be in violation of any provision of this by-law for which no other penalty is specified shall be punished by a fine of \$20.

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**§ 103-5. Severability.**

In the event that any event that any provision, section or clause of this by-law is hereafter judicially found to be invalid, such decision, invalidity or voidance shall not affect the validity of the remaining portion of this by-law.

**§ 103-6. Town property.**

This by-law will not apply to any Town-owned property.





## Chapter 108

### ALCOHOLIC BEVERAGES

**§ 108-1. Consumption on commercial premises.**

**§ 108-3. Temporary and occasional licenses.**

**§ 108-2. Consumption on unlicensed premises prohibited.**

**§ 108-4. Construal of provisions.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 6, § 6.4.2, of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 108-1. Consumption on commercial premises.**

No person shall consume alcoholic beverages on the premises of a commercial licensee who or which is licensed by the Select Board or the Board of Health under MGL c. 140 unless said licensee has a license for the sale of such beverages for consumption on the premises, or the Select Board has granted an occasional and temporary permit for the consumption by invitee on such premises of certain alcoholic beverages that have been purchased off the premises by the invitee. Whoever shall without permission as aforesaid consume alcoholic beverages on the premises of said licensee shall be fined \$50 for the first offense and \$100 for each subsequent offense. Each container of alcoholic beverage shall be deemed a separate offense.

**§ 108-2. Consumption on unlicensed premises prohibited.**

No licensee under MGL c. 140 who has no license to do so shall encourage, permit, or facilitate the consumption of alcoholic beverages on his, her, or its premises. Whoever encourages, permits, or facilitates the consumption of alcoholic beverages on his, her, or its premises without a temporary and occasional permit to do so shall be fined \$300 for each offense, each day of offense being a separate offense and to the extent permitted by law; the licensing authority may with due notice suspend, revoke or revise the applicable license.

**§ 108-3. Temporary and occasional licenses.**

The Select Board may upon application of a licensee grant a temporary and occasional license for the consumption of certain alcoholic beverages on the premises of said licensee, provided that same shall not be sold on the premises and the Select Board find that adequate measures are assured to protect the public safety on and off the premises.

**§ 108-4. Construal of provisions.**

Nothing herein shall be construed to prohibit the consumption of alcoholic beverages on any premises licensed under MGL c. 140 by an individual who has acquired such beverage elsewhere within habitable space owned or rented by the consumer thereof and his invitee and within a lodging house, recreational camp, overnight camp or cabin, motel and mobile

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home park licensed under MGL c. 140, provided the licensee permits such consumption. The term "alcoholic beverage" is as defined in MGL c. 138.

## Chapter 114

### ANIMALS

#### ARTICLE I

##### Restraint and Impoundment of Dogs

- § 114-1. Leash law.
- § 114-2. Violations and penalties.
- § 114-3. Authority to impound.
- § 114-4. Notice of impounding; location of impoundment.
- § 114-5. Redemption of impounded dog; fees.
- § 114-6. Female dogs in heat.

#### ARTICLE II

##### Dog Licensing and Control

- § 114-7. Definitions.
- § 114-8. Licenses and tags.
- § 114-9. Kennel licenses.
- § 114-10. Kennel inspection and regulation.
- § 114-11. Penalties for failure to license.
- § 114-12. Vaccination of dogs and cats against rabies.
- § 114-13. Disposition of fees, fines, dog fund balance.

- § 114-14. Animal Control Officers.
- § 114-15. Animal Control Officers — duties.
- § 114-16. Barking dogs.
- § 114-17. Vicious dogs.
- § 114-18. Killing dogs under certain conditions.
- § 114-19. Killing of dog known to have done damage; bonds.
- § 114-20. Property damage, appraisal, reimbursement.
- § 114-21. No reimbursement in certain cases.
- § 114-22. Liability of owner.
- § 114-23. Warrant to Animal Control Officers.
- § 114-24. Form of warrant.
- § 114-25. Returns by Animal Control Officers on warrant.
- § 114-26. Noncriminal disposition.
- § 114-27. Removal of dog waste from public property or property of others.
- § 114-28. Effective date.

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

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#### ARTICLE I

##### Restraint and Impoundment of Dogs

**[Adopted as Ch. 6, § 6.1, of the 2015 Compilation]**

##### § 114-1. Leash law.

The Select Board is authorized to set reasonable fees for licenses, violations, penalties, and other charges under this article associated with the keeping of dogs in the Town of Carver.

**§ 114-2. Violations and penalties.**

The owner or keeper of any such dog that is not restrained shall be punishable by fine of:

- A. Twenty-five dollars for first offense.
- B. Fifty dollars for second offense.
- C. Seventy-five dollars for third and all subsequent offenses.

**§ 114-3. Authority to impound.**

It shall be the duty of the Animal Control Officer to apprehend any dog not restrained as required by § 114-1 of this article, and to confine or cause to be confined said dog as provided herein. Any unlicensed dog so apprehended shall be confined and otherwise dealt with by the Animal Control Officer as required by law. Any dog so apprehended which is licensed and owned or kept in this Town shall be confined until the earlier of its being reclaimed by said owner or keeper as provided herein, or until the 10th day following the day on which such dog is apprehended. If such a licensed dog is not reclaimed as provided herein, within said ten-day period, the Animal Control Officer shall take one of the alternative courses of action which MGL c. 140, § 151A, or any act in replacement thereof or amendment thereto, requires to be taken with respect to unlicensed dogs not licensed, collared, or harnessed and tagged within the ten-day period provided therein.

**§ 114-4. Notice of impounding; location of impoundment.**

Promptly following the apprehension and confinement by the Animal Control Officer of any such licensed dog, said officer shall mail to the licensed owner thereof a notice of such apprehension and confinement, which notice shall include a statement of the last date on which said dog may be reclaimed as provided herein. The Animal Control Officer shall also promptly inform the Carver Police Department of such apprehension and confinement and of the description of such dog. Licensed dogs confined by the Animal Control Officer pursuant to this article shall be confined in a place suitable for the detention and care of dogs and kept in a sanitary condition; or they may be placed in the care of the holder of a kennel license or of a charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse.

**§ 114-5. Redemption of impounded dog; fees.**

- A. The owner or keeper of any licensed dog confined as provided for in this article may reclaim such dog upon payment of the costs and charges incurred by the Town for such apprehension and confinement and care of such dog, said charges to be \$5 for the apprehension of such dog, plus charges of \$2 for each full or partial day of confinement in a pound owned or leased by, or under the control of, the Town or the Animal Control Officer.
- B. If the dog is confined in a place other than a pound owned or leased by or under the control of the Town or the Animal Control Officer, the care charges to be paid hereunder shall be the actual charges incurred by the Town or the Animal Control

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Officer for such confinement. No licensed dog confined as provide in the article may be reclaimed until the owner or keeper thereof shall have paid all such costs to the Animal Control Officer. The Animal Control Officer shall pay over to the Town Treasurer all sums so paid to him, said sums to be applied to the cost of enforcing this article.

**§ 114-6. Female dogs in heat.**

If the Animal Control Officer determines that a dog in its estrous cycle or "in heat" is attracting other dogs and such attraction is causing damage or disturbance to any neighborhood, the Animal Control Officer shall order in writing the owner or keeper of such dog to restrain the dog for the duration of its estrous cycle. If the Animal Control Officer determines that such owner or keeper is not complying with such order, the Animal Control Officer shall impound said dog for the duration of its estrous cycle at the expense of the owner or keeper.

## ARTICLE II

## Dog Licensing and Control

[Adopted as Ch. 6, § 6.1A, of the 2015 Compilation]

**§ 114-7. Definitions.**

The following words and phrases shall have the following meaning(s):

ANIMAL CONTROL OFFICER — Any officer appointed under these rules and regulations for the enforcement of said rules and regulations.

CLERK — The Town of Carver Clerk.

HOBBY KENNEL — A single premises with a collection of six to 10 dogs, three months or older, that are maintained for any purpose and where four or more litters per year are raised, or where the boarding of grooming of dogs is performed as a business.

KEEPER — Any person, corporation, or society, other than the owner, harboring or having in his possession any dog.

KENNEL — A single premises with a collection of four or five dogs, three months or older, that are maintained for breeding, boarding, sale, training, hunting or any other purpose.

LICENSED PERIOD — The time between January 1 through the following December 31, both dates inclusive.

LIVESTOCK OR FOWL — Animals or fowl kept or propagated by the owner for food; also deer, elk, cottontail rabbits and northern hares, pheasants, quail, partridge, and other birds and quadrupeds determined by the Department of Fisheries, Wildlife and Recreational Vehicles<sup>1</sup> to be wild and kept by, or under, a permit from said Department in proper houses or suitable enclosed years. Such phrase shall not include dogs, cats, or other pets.

SELECT BOARD — The Town of Carver Select Board.

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1. Editor's Note: So in original. See the Department of Fish and Game, Division of Fisheries and Wildlife.

**§ 114-8. Licenses and tags.**

- A. The owner or keeper of a dog kept in the Town of Carver is subject to these regulations when the dog attains the age of three months and annually thereafter.
- B. The Town Clerk shall issue dog licenses and tags on a form proscribed and finished by the Town of Carver. The Animal Control Officer may accept applications and fees for licenses and shall transmit same to the Clerk who shall cause the license to be issued. Subject to the approval of the Select Board, the Town may permit licensure to be conducted through the mail.
- C. The Clerk shall record each license issued, the name of the owner or keeper or each dog so licensed, and the name, registered number and description of each dog. The owner or keeper of any dog so licensed shall state upon the license from the breed, color, weight, and special markings of the dog. Such books shall be open to public inspection during the usual office hours of the Clerk.
- D. Each tag shall include the license number, a statement that the dog is licensed in the Town of Carver, and the year issued.
- E. The owner or keeper shall cause said dog to wear around its neck or body or a collar or harness to which the tag shall be securely attached. In the event that any tag is lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the clerk at a cost of \$2.
- F. A license duly recorded in another jurisdiction shall be valid in the Town of Carver until the expiration of the licensing year, at which time the owner or keeper will cause the dog to be licensed in the jurisdiction of residence.
- G. The fee for each dog licensed shall be \$10 unless a certificate from a veterinarian stating that the dog has been spayed or neutered has been presented to the Clerk, in which case the fee shall be \$7.
- H. No fee shall be charged for a dog specially trained to lead or trained to lead or serve a blind or deaf person upon presentation to the clerk of a certificate of such training.
- I. A license fee shall not be refunded because of a subsequent death, loss, spaying or neutering, or removal from the Town of such dog, nor because a license fee has been mistakenly paid to a city or town.
- J. The provisions of this section shall not apply to institutions licensed under Chapter 140, Section 17D of the General Laws,<sup>2</sup> to shops licensed under MGL c. 129, § 39A, to any person operating a kennel and where otherwise provided by law.

**§ 114-9. Kennel licenses.**

- A. Any owner or keeper of four or more dogs, three months of age or over and the owner of any premises where such dogs are kept, shall obtain a kennel license under the Town's Zoning By-Law. The written approval of the Board of Appeals or special

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2. Editor's Note: So in original; see MGL c. 140, § 174D, Research institutions; license to use dogs or cats.

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permit granting must be presented to the Town Clerk prior to the issuance of such license. Kennels are defined and classified in § 114-7 of these regulations.

- B. The fees for each classification of kennel licenses, shall be as follows:
  - (1) Kennel license: \$30 per year.
  - (2) Hobby kennel license: \$60 per year.
  - (3) Commercial kennel license: \$150 per year.
- C. A kennel license shall be in lieu of any other license required for any dog, which may be kept in such kennel for any portion of the period for which the license is issued. The owner or keeper of such kennel shall renew the license prior to the commencement of each succeeding license period.
- D. While at large, each dog in a kennel shall wear a collar or harness to which shall be securely attached a tag upon which shall appear the number of the kennel license, the name of the town issuing such license, and the year of issuance. Such tag shall be in form proscribed and furnished by the Town of Carver and shall be issued by the Town Clerk along with the kennel license.
- E. If a kennel owner desires to increase the capacity of his kennel during a license period, he shall apply for a license modification to the Town Clerk, and, if necessary, present the Town Clerk with the written approval of the Board of Appeals or special permit granting authority prior to the issuance of such license modification. The Clerk shall issue such modification upon payment by the owner of the difference between his existing kennel license and the fee for the kennel license most recently approved.
- F. The Clerk shall issue, without charge, upon written application and written approval of the Board of Appeals, a kennel license to any domestic charitable corporation incorporated in the commonwealth exclusively for the purpose of protecting animals from cruelty, neglect, or abuse.
- G. A veterinary hospital shall not be considered a kennel unless it contains an area for the grooming or selling of dogs, or the boarding of dogs for other than medical or surgical purposes, in which case it shall supply to the Clerk proof of obtaining a special permit from the Board of Appeals prior to the issuance of a kennel license.
- H. All holders of kennel licenses shall notify the Town Clerk, in writing, of the sale of any dog or pup, including a description of the animal, the age, color, identifying marks, sex and whether the dog has been spayed or neutered. The kennel owner will forward a copy of such notice to the Clerk of the city or town in which the owner resides.

**§ 114-10. Kennel inspection and regulation.**

- A. The Animal Control Officer or the Chief of Police of the Town of Carver or other persons authorized under the General Laws shall at any time inspect or cause to be inspected any kennel and if, in his or her judgment, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, the Select Board shall by order revoke or suspend said kennel license. In the case

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of suspension of said license, the Select Board may reinstate such kennel license and impose conditions and regulations upon the operation of said kennel.

- B. Upon the petition of 25 citizens filed with the Select Board setting forth that they are aggrieved or annoyed to an unreasonable extent by one or more dogs at a kennel located in the Town because of excessive barking or vicious disposition of such dogs or other conditions connected with the kennel that constitute a public nuisance, the Select Board shall, within seven days of the filing of such petition, give notice to all parties concerned of a public hearing to be held within 14 days after the date of such notice. Within seven days after the public hearing, the Select Board shall make an order either revoking or suspending such kennel license or otherwise regulating the operation of said kennel, or shall dismiss such petition.
- C. Any person maintaining a kennel after the license has been suspended or revoked shall be punished by a fine of not less than \$50 per day, which fine shall be returned by the court to the Town.

**§ 114-11. Penalties for failure to license.**

- A. Whoever violates any provision of § 114-8 or 114-9 of these rules and regulations shall be punished by a fine of not less than \$25 nor more than \$50, which shall be paid to the Town.
- B. If any persons refuses to answer, or answers falsely, questions of a police officer or a Animal Control Officer pertaining to his ownership of a dog, he shall be punished by a fine of not less than \$25, which shall be paid to the Town.
- C. If a dog as to which any violation occurs was unlicensed at the time of such violation, a fine of not less than \$25 nor more than \$50 shall be imposed to be paid to the Town, and the owner keeper of such dog will be required to immediately procure all delinquent licenses and tags, as well as current license and tag.

**§ 114-12. Vaccination of dogs and cats against rabies.**

- A. The owner or keeper of a dog or cat four months of age or older housed or sheltered in the Town of Carver shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine approved by the Massachusetts Department of Public Health. Unvaccinated dogs and cats acquired or moved into the Town of Carver shall be vaccinated within 30 days after the acquisition or arrival into Carver or upon reaching the age of four months, whichever last occurs. Such owner or keeper shall procure a veterinarian's certification that such animal has been so vaccinated and setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued.
- B. The veterinarian shall issue a tag with each certificate of vaccination. The tag shall be secured by the owner or keeper of such dog or cat to a collar or harness made of suitable material to be worn by the dog or cat; provided however, the owner of a cat may choose not to affix a tag to his cat but shall have the tag available for inspection upon demand by the Animal Control Officers, police officers or other such authorized officials of the Town.



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- C. Vaccinated animals shall be revaccinated periodically in accordance with the rules and regulations adopted by and promulgated by the Massachusetts Department of Public Health.
- D. Any person who violates the provisions of this section shall be punished by a fine of not less than \$50, which shall be paid to the Town.

**§ 114-13. Disposition of fees, fines, dog fund balance.**

- A. The Town Clerk shall issue said licenses and tags and receive the money therefor. Such fees shall be paid in full into the Town treasury not later than the first Monday of each month.
- B. The Town Clerk shall make a record in books kept therefore of each licensed issued, the name and address of the owner or keeper of each dog licensed, the registered number and description of each dog, and such books shall be open to public inspection during the usual office hours. The Town shall pay for all license forms, tags, record books and all standard operating forms.

**§ 114-14. Animal Control Officers.**

- A. The Town Administrator shall, from time to time, appoint in accordance with § 45-6A of the General By-laws one or more Animal Control Officers who shall receive an annual salary which shall be set by the Select Board within the amount appropriated by the Town, who may be police officers or constables.
- B. The Town may enter into a contract with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, to perform the duties of the Animal Control Officer.

**§ 114-15. Animal Control Officers — duties.**

- A. The Animal Control Officer shall attend to all complaints, except as assigned to the Chief of Police, or other matters regarding dogs in the Town.
- B. The Animal Control Officer shall, at least twice in each year, inspect every premises holding a kennel license and shall issue a written report of the conditions of said kennel to the Select Board and the Board of Health of Carver, stating their opinion as to the maintenance, humane and sanitary conditions, and if records are properly kept by the owner or keeper of said kennel.
- C. The Animal Control Officer shall be responsible for the supervision of and the maintenance and care of the animal control shelter in the Town, unless the Town otherwise contracts with a licensed animal control shelter in another municipality.
- D. The Animal Control Officer shall be responsible for maintaining records of all animals that become the subject of any action. Shall record each complaint and the nature thereof and what action, if any, was taken by the Animal Control Officer or any other authority of the Town.

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- E. The Animal Control Officer shall maintain records of each dog confined under their care and custody for any reason whatsoever, stating the reasons for such confinement, the breed and color of the dog, the date the dog came under the control of the Animal Control Officer, the final disposition of the dog and the date of the disposition.
- F. The Animal Control Officer shall examine any premises to be used as a proposed kennel and must submit a written report to the Zoning Board of Appeals stating their opinion as to whether or not such a site would be suitable for the type of kennel license requested.
- G. No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture and no Animal Control Officer or any representative shall sell any animal to any licensed animal dealer registered with the United States Department of Agriculture. Whoever violates the provision of this section shall be punished by a fine of not less than \$100.

**§ 114-16. Barking dogs.**

- A. No person owning, keeping or otherwise responsible for a dog shall allow or permit said dog to annoy another person's reasonable right to peace or privacy by making loud or continuous noise, where such noise is plainly audible at a distance of 150 feet from the building, premises, vehicle, or conveyance housing said dog, or such noise is continuous in excess of 60 minutes. The fact that such noise is plainly audible at said distance or continuous in excess of 60 minutes shall be prima facie evidence of violation.
- B. If any person shall make a complaint in writing to the Select Board that any dog owned or harbored within the Town of Carver is a nuisance by reason of excessive barking or other disturbance, or is a source of annoyance to any sick person residing in the vicinity, the Select Board shall investigate or cause to be investigated such complaint. They may examine under oath such complainant and any or all witnesses and may require available medical evidence and they may make such order requiring the silence or removal of such dog.
- C. Within 10 days after such order, the owner or keeper of such dog may bring a petition in the District Court within the judicial district for review of such order. The Magistrate shall review the facts and all evidence of the matter, call witnesses, and shall affirm such order unless it shall appear that such order was made without proper cause or in bad faith, in which case the order shall be reversed.
- D. Any person who violates the provisions of this section shall be subject to a written warning for the first offense, and shall be subject to payment of the following fines:
  - (1) Twenty-five dollars for second offense.
  - (2) Fifty dollars for third offense.
  - (3) Seventy-five dollars for fourth offense and all subsequent offenses.

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**§ 114-17. Vicious dogs.**

- A. If any person shall make a complaint to the Select Board that any dog harbored within the Town of Carver is a nuisance by reason of a vicious disposition, the Select Board shall investigate or cause to be investigated all such complaints. It may examine, under oath, such complainant, and any or all witnesses and may require available medical evidence, and it may make such order concerning the restraint or destruction of such dog as may be necessary.
- B. Within 10 days after such order, the owner or keeper of such dog may bring a petition in the District Court within the judicial district for review of such order.
- C. The Magistrate shall review the facts and all evidence of the matter, call witnesses, and shall affirm such order unless it shall appear that such order was made without proper cause or in bad faith, in which case the order shall be reversed.
- D. If, following affirmation of such order by the Magistrate, the owner or keeper of the dog has not caused the dog to be restrained in keeping with such order, he shall face a complaint in District Court within the judicial district and shall be fined not less than \$100 for each violation of such restraint order, which shall be paid to the Town.
- E. If, following the affirmation of such order by the Magistrate, the owner or keeper of the dog has not caused the dog to be destroyed, the Animal Control Officer or Chief of Police may enter onto the property of the owner or keeper of such dog, take the dog and kill or caused to be killed such dog.
- F. The act of a dog in attacking or biting another dog or another animal may be made the subject of a complaint under the provisions of this section.
- G. Fines collected under this section and all other sections of these rules and regulations shall be paid to the Town.

**§ 114-18. Killing dogs under certain conditions.**

Any person may kill a dog when:

- A. Any person may kill a dog which suddenly assaults him while he is peaceably standing, walking, or riding outside the enclosure of its owner or keeper. Any person may kill a dog found out of the enclosure of its owner or keeper and not under his immediate care in the act of worrying, wounding, or killing persons, animals, or fowls. If any person shall kill or attempt to kill a dog so found, he shall not be held liable for cruelty to the dog unless it shall be shown that he intended to be cruel to the dog, or that he acted with a wanton disregard for the suffering of the dog. Any person who kills or wounds a dog under this section shall promptly report such action to the Animal Control Officer or the Police Department.
- B. Any police officer, constable, or Animal Control Officer shall kill a dog which the Select Board upon review, a Magistrate or Judge of the District Court shall have ordered to be restrained for vicious behavior, and if such dog is again found outside the enclosure of its owner or keeper and not under his immediate care. Any police officer, Animal Control Officer, or constable may kill a dog which is living in a wild state.

**§ 114-19. Killing of dog known to have done damage; bonds.**

The Select Board or its agents duly authorized in writing, may, after written notice to the owner or keeper, enter upon the premises of the owner or keeper of any dog known to have done damage to livestock or fowl, and then and there kill such dog, unless such owner or keeper whose premises are thus entered shall give a bond in the sum of \$1,000, with sufficient sureties, approved by the Select Board, conditioned that the dog be under permanent restraint. If the owner or keeper declares his intention to provide such bond, he shall be allowed seven days in which to provide said bond to the Town Clerk, exclusive of Sundays and holidays.

**§ 114-20. Property damage, appraisal, reimbursement.**

- A. Whosoever suffers loss by the worrying, killing or maiming of his livestock or fowl by dogs shall inform the Animal Control Officer and shall forthwith proceed to the scene to view the damage, who shall determine if the damage was done in fact by dogs and, if so, appraise the amount of the damage if it does not exceed \$50.
- B. If in the opinion of the Animal Control Officer the damage exceeds \$50, the damage shall be appraised on oath by three persons, one of whom shall be the Animal Control Officer, one shall be appointed by the person alleged to be damaged and the third appointed by the other two.
- C. The said appraisers shall consider and include such damages the number and kind of animals damaged, the extent of the damage and the approximate weight of the killed animals. The appraisers will also note in their report whether or not any animals were sent for veterinarian treatment in an effort to save them, the number, and kind of such animals. Such report will be filed in the office of the Town Clerk within 10 days of said appraisal, who shall submit said appraisal report to the Select Board. The Select Board may require the appraisers to provide any additional information that it deems appropriate in accordance with the report of the appraiser.

**§ 114-21. No reimbursement in certain cases.**

No owner of livestock or fowl shall be reimbursed for damages inflicted by his own dog or dogs, nor shall he be reimbursed if he, himself, was the owner or keeper of an unlicensed dog three months of age or older, nor shall he be reimbursed for damages if the owner or keeper of the dog inflecting the damage is known to him or to the Animal Control Officer. No reimbursement shall be made in the case of damage to deer, elk, cottontail rabbit, northern hares, pheasants, quail, partridge and other livestock or fowl determined by the Department of Fisheries, Wildlife and Recreational Vehicles<sup>3</sup> to be wild. No reimbursement will be made for damages unless the livestock or fowl are kept in proper houses or in suitable enclosed areas. No reimbursements shall be made for damage done by a dog to dogs, cats or other pets. Awards for damages in no case shall exceed fair cash market value at such livestock.

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3. Editor's Note: So in original. See the Department of Fish and Game, Division of Fisheries and Wildlife.

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**§ 114-22. Liability of owner.**

- A. The owner or keeper of a dog which has done damage to livestock or fowl shall be liable for such damage, and the Select Board may order the owner or keeper to pay such damages after an investigation by the Animal Control Officer of the facts of the matter and an appraisal by the Animal Control Officer, one person chosen by the person sustaining the damage and a third appraiser chosen by the other two. The appraisers will submit a report to the Select Board stating the type of damage, the number, and kind of animal damages and whether any animals required medical treatment by a veterinarian to save them.
- B. In the event that the owner or keeper of such dog known to have done damage to livestock or fowl refuses to pay upon the order of the Select Board, the Select Board shall enter or cause to be entered a complaint in District Court for the enforcement of the order.
- C. If a dog which has previously been ordered restrained by the Select Board, or, upon review by the District Court, wounds any person, or shall maim or kill any livestock or fowl, the owner or keeper of such dog will be liable to the person injured thereby in treble the amount of damages sustained by him.

**§ 114-23. Warrant to Animal Control Officers.**

- A. The Select Board shall annually within 10 days after September 1 issue a warrant to the Animal Control Officer to seek out, catch and confine all dogs within the Town which then have not been licensed, collared and tagged as required by these regulations. The Animal Control Officer shall enter and prosecute a complaint for failure to comply with the provisions of these regulations against the owners or keeper thereof, if known. The Animal Control Officer shall kill or cause to be killed each such dog which, after a period of 10 days, remains unclaimed, or at the end of the ten-day period each Animal Control Officer may sell any healthy dog to any person presenting a valid positive identification for a sum not less than \$5, which shall be paid to the Town of Carver.
- B. Before delivery of any dog so sold, the Animal Control Officer shall require the purchaser to obtain a license from the Town Clerk or shall require the purchaser to pay the appropriate license fee with an application for a dog license to the Animal Control Officer.
- C. All dogs confined under this section shall be confined in a suitable and humane detention area or they may be placed in the care of a holder of a kennel license or with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, abuse or neglect.
- D. The Town Clerk shall annually, on September 1, provide to the Select Board a listing of all dog licenses issued in the preceding year, their name and address, and a listing of all persons shown on the annual consensus who, as of January 1, were the owner or the keeper of a dog and their address. The Town Clerk shall further provide to the Select Board a listing of all persons in the current year who have licensed their dogs and their addresses. The Select Board shall attach all such lists to the warrant.

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**§ 114-24. Form of warrant.**

In the Town, such warrant will be in the following form:

**COMMONWEALTH OF MASSACHUSETTS****PLYMOUTH, ss.**

To \_\_\_\_\_, Animal Control Officer of the Town of Carver, you are hereby required to catch and confine all dogs within the Town of Carver not duly licensed, harnessed or collared and tagged. You shall record in writing the date, time, and location of each apprehension and confinement, and shall describe the appearance of each dog caught, the condition under which it was caught and its final disposition. You shall maintain each record for one year following the apprehension and confinement of each such dog and such record will be available for public inspection during that one year.

You shall issue a citation against the owner or keeper of every such dog whose owner or keeper can be identified.

You shall confine every such dog for a period of not less than ten (10) days, unless during that ten days you release that dog to its owner or keeper if such dog has been licensed, collared, or harnessed and tagged and the owner or keeper has paid to you the sum of five dollars for every day the dog was in your custody, which shall be transmitted to the Town Treasurer.

At the expiration of the ten day confinement period, you may allow any person to adopt a healthy dog, upon presentation of a valid positive identification, in accordance with § 114-23 of the General By-laws.

Hereof fail not, and make due return of this Warrant with your doings thereon on or before the first day of October next, on or before the first day of January next, on or before the first day of April next and on or before the first day of June next, stating the number of dogs caught, confined and/or killed or sold, along with the names and addresses of the owners or keepers thereof, if known, and whether all unlicensed dogs in the Town of Carver have been caught, confined, killed or sold and the names of persons against whom complaints have been made.

Given under my hand and seal at (name of city or town), the \_\_\_\_ day of September 20\_\_\_\_.

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Chairman, Select Board

**§ 114-25. Returns by Animal Control Officers on warrant.**

Each Animal Control Officer to whom such warrant is issued shall make returns on or before October 1, on or before January 1, on or before April 1, on or before June 1 and at the expiration of his term of office to the Select Board issuing same, and shall state in said returns the number of dogs which he has caught, confined, killed or sold, the name; and addresses of the owners or keepers thereof, if known, and the names of persons against whom complaints have been entered and whether complaints have been entered against all persons who have failed to comply with these regulations since the previous report.

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**§ 114-26. Noncriminal disposition.**

Whoever violates any provision of these regulations may be penalized by a noncriminal disposition process as provided in MGL c. 40, § 21D, and as set forth under Chapter 1, Article II, of the General By-laws. If noncriminal disposition is elected, then any person who violates any provision of these regulations shall be subject to a penalty in the amount of \$50 for each offense, except as otherwise provided therein. Each day or portion thereof shall constitute a separate offense. The Animal Control Officer(s) and police officers shall be deemed to be enforcing persons under this section.

**§ 114-27. Removal of dog waste from public property or property of others.**

- A. No person owning or having the care, custody, or control of any dog shall permit such dog to soil or defile or commit any nuisance upon any sidewalk, street, thoroughfare, beach or wetland, in or upon any public property or in or upon the property of persons other than the owner or persons having the care, custody, or control of such dog, unless said person picks up any such waste and disposes of same in a sanitary manner.
- B. Any person who violates the provisions of this section shall be punished by a fine of not less than \$20 for each offense.

**§ 114-28. Effective date.**

The deletion of Sections 6.1.7 through 6.1.9 inclusive, and the insertion of Article II, shall take effect on July 1, 2003.





## **Chapter 122**

### **BUILDINGS AND BUILDING CONSTRUCTION**

#### **ARTICLE I** **Numbering of Buildings**

**§ 122-1. Assignment.**

**§ 122-2. Notice of changes.**

**§ 122-3. Responsibility to post numbers.**

**§ 122-4. Time frame for posting numbers.**

**§ 122-5. Number and location specifications.**

**§ 122-6. Violations and penalties; enforcement.**

#### **ARTICLE II** **Stretch Energy Code**

**§ 122-7. Definitions.**

**§ 122-8. Purpose.**

**§ 122-9. Applicability.**

**§ 122-10. Stretch Energy Code.**

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

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#### **ARTICLE I** **Numbering of Buildings** **[Adopted as Ch. 6, § 6.8, of the 2015 Compilation]**

**§ 122-1. Assignment.**

Street numbers shall be assigned by the Building Commissioner/Inspector of Buildings or his designee for every dwelling and nonresidential, principal building in Town.

**§ 122-2. Notice of changes.**

Notice of any necessary changes to previously assigned street numbers shall be given by regular mail, and by posting in the office of the Town Clerk.

**§ 122-3. Responsibility to post numbers.**

It shall be the responsibility of each property owner to obtain and display the appropriate street number(s) for their existing building(s) 30 days of the effective date of this by-law or notice of change described in § 122-2, whichever is later.

**§ 122-4. Time frame for posting numbers.**

Any new building described in § 122-1 erected or located in the Town shall be assigned a street number at the time a building permit is issued. The assigned street number must be displayed by the date of occupancy and no occupancy permit or smoke detector certificate of compliance shall be issued for the building unless the assigned street number has been displayed.

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**§ 122-5. Number and location specifications.**

Street numbers shall be made of permanent, weatherproof materials in contrasting color to the building, shall be at least three inches in height, and shall be affixed to the outside of the building near the main entrance so as to be clearly visible from the street or way on which the building fronts. In cases where the number cannot be made clearly visible from a street or way, the number shall be affixed, at a height of at least 36 inches above the ground, to a permanent sign, post or mailbox located at the property line proximate to the access way into the lot on which the building is located.

**§ 122-6. Violations and penalties; enforcement.**

Any person who fails to comply with this by-law or who unlawfully removes, defaces or changes a street number which has been affixed to a building or structure in accordance with this by-law, shall be subjected to a fine of \$50. This by-law shall be enforced by the Building Commissioner/Inspector of Buildings.

**ARTICLE II****Stretch Energy Code****[Adopted 4-22-2019 ATM by Art. 19]****§ 122-7. 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. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

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

**§ 122-8. Purpose.**

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to relevant sections of the building code for both new construction and existing buildings.

**§ 122-9. Applicability.**

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51,<sup>1</sup> as applicable.

**§ 122-10. Stretch Energy Code.**

The Stretch Energy 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 Carver General Bylaws. The Stretch Code is enforceable by the Building Commissioner.

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1. Editor's Note: So in original; 780 CMR 51 does not exist.



## **Chapter 130**

### **DISORDERLY CONDUCT**

**§ 130-1. Disorderly conduct and  
obstruction by people.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 6, § 6.4.1, of  
the 2015 Compilation. Amendments noted where applicable.]**

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**§ 130-1. Disorderly conduct and obstruction by people.**

It shall be guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance, or recklessly creating a risk, they:

- A. Engage in fighting, violent, or threatening behavior; or
- B. Obstruct vehicular or pedestrian traffic; or
- C. Use indecent, profane, or insulting language in a public place or near a dwelling; or
- D. MI<sup>1</sup> make any indecent figures, or writes any words, or make any marks that shall deface any wall, post, fence, building, roadway or public property.

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**1. Editor's Note: So in original.**



## Chapter 136

### EARTH REMOVAL

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| <p>§ 136-1. Purpose.</p> <p>§ 136-2. Definitions.</p> <p>§ 136-3. Earth Removal Committee.</p> <p>§ 136-4. Earth removal permit requirements.</p> <p>§ 136-5. Site plan.</p> <p>§ 136-6. Public hearing.</p> <p>§ 136-7. Earth removal permit conditions.</p> | <p>§ 136-8. Earth removal conditional exemptions.</p> <p>§ 136-9. Nuisance conditions.</p> <p>§ 136-10. Existing operations.</p> <p>§ 136-11. Enforcement; violations and penalties.</p> <p>§ 136-12. Severability.</p> |
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**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 9, § 9.1, of the 2015 Compilation. Amendments noted where applicable.]**

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#### § 136-1. Purpose.

The purpose of this by-law is to promote the health, safety, and general welfare of the residents of the Town of Carver, and to ensure that permanent changes in the surface contours of land resulting from the removal and regrading of earth materials will leave the land in a safe and convenient condition for appropriate reuse without requiring excessive and unreasonable maintenance or creating danger of damage to public and private property, as well as to provide that earth removal activities shall be conducted in a safe manner and with minimal detrimental effect upon the district in which the activities are located. This by-law pertains to all commercial mining, agricultural excavation and excavation due to construction that is not exempt pursuant to § 136-8 of this by-law.

#### § 136-2. Definitions.

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

**ABUTTERS AND OTHER PARTIES IN INTEREST** — Abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the site as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town.

**AGRICULTURAL EXCAVATION** — The process of removing earth or other materials that is necessary and incidental to prepare a site for specific agricultural use. Agricultural excavation may include the creation of wetland resource areas such as ponds, canals, cranberry bogs, and land subject to flooding as defined under the MGL c. 131, § 40, and as defined in Massachusetts Wetlands regulations 310 CMR 10.00.

**COMMERCIAL MINING** — The business of extracting ore, earth or minerals from the ground for sale or profit unless conditionally exempted under § 136-8.

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**EARTH** — All forms of soil, including but not limited to clay, gravel, hardpan, loam, peat, rock, or sand.

**LOT/LAND** — A single parcel of land lying in a single body and separated from the owner's or other party's contiguous land by property lines described in a recorded plan or deed.

**OWNER** — The owner of the land from which earth is sought to be removed, including individual owners, realty trusts, companies and corporations, or other legal entities.

**PROPERTY LINE** — A line separating one lot from another.

**REMOVAL** — Stripping, excavating, commercial mining, agricultural excavation, excavation due to construction or blasting earth and rearranging it on the same lot or carrying it away from that lot.

**RESTORATION** — After an earth removal activity, returning the land contours to safe and usable condition and planting appropriate ground cover, or taking other measures pursuant to § 136-5C of this by-law.

### **§ 136-3. Earth Removal Committee.**

#### **A. Establishment; membership.**

- (1) There is hereby established a seven-member Earth Removal Committee (ERC). All members must be residents of the Town of Carver. The ERC will consist of three representatives of the Select Board at which no time shall more than two of the Select Board's representatives be actual members of the Select Board, and four additional members to be appointed by the Town Administrator subject to Subsection B and endorsed by the Select Board.
- (2) When the ERC is established, one member shall be appointed for a term of one year, one member for a term of two years, and two members for a term of three years, and their successors shall be appointed for terms of three years.

#### **B. Town Administrator appointment of additional members.**

- (1) The membership of the ERC shall be made up as follows:
  - (a) Three representatives of the Select Board;
  - (b) Two members from three nominees submitted by the Cape Cod Cranberry Growers' Association;
  - (c) One member from nominees submitted by the Carver Board of Health.
  - (d) One member of the trucking industry, nominated by the ERC.
- (2) In the absence of nominees from one or more of these groups, the Town Administrator shall choose members without designation. In no case shall more than two of the appointed members represent the same trade, profession, occupation, or business interest. All members shall serve without compensation and must be endorsed by the Select Board.



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- C. No Committee action shall be taken without a quorum of four members (except to continue a hearing in the absence of a quorum), and no decision shall be made without the vote of a majority of the members present.
- D. The Committee shall meet, at a minimum, once a month at a place and time to be determined by the Committee.

**§ 136-4. Earth removal permit requirements.**

- A. Except as provided otherwise in this by-law (see § 136-8), no earth shall be removed from any lot in the Town of Carver without the issuance of a permit from the ERC.
- B. Before a permit for earth removal can be issued or denied, application shall be submitted on such forms or in such manner as the ERC may specify in its rules and regulations. The regulations adopted shall include, but are not limited to: the method of application, filing fees, required exhibits, site plans, site plan review fees, monitoring fees, bond requirements, and the means of compliance, inspection and administration. This by-Law shall be effective notwithstanding the absence or invalidity of rules adopted by the ERC.
- C. An expedited permit, as outlined in the ERC's rules and regulations, may be issued by the ERC provided that the proposed excavation is more than 1,000 cubic yards per year, and less than 5,000 cubic yards per year. If deemed necessary by the ERC, an expedited permit may be required to have a public hearing as outlined in § 136-6 of this by-law.

**§ 136-5. Site plan.**

- A. A site plan shall be submitted in the quantities and in the form required by the rules and regulations of the ERC. Such plan shall be submitted by the ERC to the Planning Board, Agricultural Commission, Conservation Commission, Board of Health, Select Board, and Fire Department, Police Department, DPW, Board of Assessors and other officers and official boards of the Town for review and comment, as the ERC may direct. A plan shall also be filed with the Town Clerk.
- B. The site plan shall be prepared by a registered professional engineer.
- C. The plan shall include, but not be limited to, pertinent information on the following: lot boundaries, names of abutting owners and other parties in interest, streets contiguous to the site, vegetation, existing and proposed roadways, existing and proposed buildings, location of sources of water, wetlands, primary recharge areas, the Natural Heritage and Endangered Species Program Priority Habitat of Rare and Endangered Species, sewage disposal, parking, loading areas, easements and rights-of-way, walls, fences, ditches, streams, ponds, and known permanent monuments, and other cross sections, profiles, and contour maps needed to describe the proposal. The site plan shall show existing intermediate and final ground levels with those of adjacent properties and shall indicate natural surface water flows and drainage ditches if any. The site plan shall also show groundwater elevations before and after removal. The ERC may require drainage computations based on DEP drainage program TR-55 and a sediment control plan for during and after the operation with phasing as required. These computations shall

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indicate ten- and 100-year storm effects. The plan shall also show a fully complete restoration plan which complies with sound engineering practices and either the Natural Resources Conservation Service Conservation Practice Standard "Land Reclamation, Currently Mined Land," Code 544 or the Natural Resources Conservation Service Conservation Practice Standard "Critical Area Planting" Code 342, as determined by the ERC. These requirements are on file at the Select Board's office and the Town Clerk's office.

- D. In certain instances as outlined in § 136-4C of this by-law, the applicant shall be allowed to submit an abbreviated application instead of the full application and site plan described above. The ERC shall specify the exact form of the abbreviated application in its rules and regulations. The abbreviated application shall include, but is not limited to: the name of the owner, the location of construction, the volume of earth to be removed, the rate and time frame of removal, the removal contractor and the time frame of restoration. The application shall be designed in such a way that the applicant can file without assistance from an engineer or other professional. Within 60 days of the filing, the ERC may notify the applicant that the circumstances of the project warrant a full permit application.

#### **§ 136-6. Public hearing.**

The ERC shall, within 65 days after the filing of a full or abbreviated application, hold a public hearing on said application. No permit shall be issued or denied until the public hearing has been held. Notification of the public hearing shall be advertised for two consecutive weeks in a newspaper generally circulated in Town beginning at least 14 days before such hearing, and by written notice to the Board of Health, Select Board, Board of Assessors, Agricultural Commission, Conservation Commission, Planning Board, Police, and Department of Public Works. The applicant shall notify all abutters and other parties in interest of the hearing by certified mail and present receipts to the ERC. Advertising and related expenses shall be borne by the applicant, in addition to filing fees.

#### **§ 136-7. Earth removal permit conditions.**

- A. The ERC shall determine that the proposal generally conforms to the principles of good engineering, sound planning, correct land use, and provides for the proper and reasonable reuse of available topsoil if appropriate.
- B. The applicant shall be required to cover all costs for review of the proposal by a registered engineer or other expert as the Earth Removal Committee sees fit and chosen by the Earth Removal Committee. The applicant shall also be required to cover the cost of monitoring the project by an agent of the committees' choosing.
- C. A fifty-foot undisturbed buffer along all property lines must be maintained at all times. The ERC may in certain instances provide relief from this restriction, if the applicant shows a significant hardship and/or shows that the proposed excavation would not have a detrimental impact on the abutting property.
- D. The ERC shall set hours of operation, specify special truck routes, require bonds for restoration, road repair or other purposes, require monitoring fees, and impose safety-

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related conditions. The board shall establish provisions for monitoring the permitted earth removal activity on a regular basis, and may, to the extent permitted by law, enter the premises at any time to inspect for compliance with the conditions set forth in the permit.

- E. A bond or other performance guarantee acceptable to the ERC shall be established by the ERC based on the estimated cost of restoration for the project as may be deemed appropriate and shall be held by the Town of Carver until all work has been completed and conditions of the special permit have been met. The ERC shall require the applicant to submit status reports every 90 days to the ERC on an appropriate form as outlined in the ERC rules and regulations and shall require the site to be inspected by the ERC authorized agent and a report filed to the ERC at the end of every twelve-month period.
- F. In the event that the subject property is not used for said agricultural purposes after the removal, the ERC may require that a bond or other performance guarantee acceptable to the ERC, pursuant to Subsection E, be provided, based on the estimated cost of restoration that is consistent with NRCS Conservation Practice Standard "Land Reclamation, Currently Mined Land," Code 544.
- G. Applications for permits may be granted, denied, or granted in part and denied in part. The ERC shall have 45 days to render a decision after the last session of the public hearing closes, provided that any continuation of the hearing beyond the date and time noticed in the advertised hearing notice shall be announced at the hearing for a date, time, and place certain. The conditions of the permit, including the expiration date, shall be clearly set forth on the permit. The ERC shall file its decision with the Town Clerk and notify the applicant of its decision within 21 days after the decision is made at a public meeting of the ERC.
- H. No permit shall be issued for a period in excess of 12 months. However, permits shall be extended beyond 12 months if the ERC is satisfied with all quarterly reports regarding the project and that the work is carried out under the plans, specifications, and conditions previously approved after public hearing, and does not entail earth removal of a larger quantity or from a larger land area than allowed in the original permit. No project may be extended beyond a five-year period without a full hearing of the ERC.

#### **§ 136-8. Earth removal conditional exemptions.**

An earth removal permit shall not be required for the following activities, provided the operation does not constitute a nuisance or danger to the public, and conforms to accepted engineering and/or agricultural practices:

- A. Earth removal involving less than 200 cubic yards for a single- or two-family lot or less than 1,000 cubic yards for an industrial, multifamily and/or commercial project.
- B. Removal necessary for the reconstruction of existing streets and the installation of utilities;
- C. Removal performed in connection with any Town, state and/or federal projects;

- D. Removal necessary for normal cranberry-related activities or other agricultural uses as defined under MGL c. 131, § 40, 310 CMR 10.04: (a) land in agricultural use, (b) normal maintenance of land in agricultural use, and (c) normal improvement of land in agricultural use. This agricultural-related work is further defined as earth necessary to maintain or improve the applicants/owner's contiguous or noncontiguous land for agricultural purposes, and does not include the removal of earth for sale, trade or other considerations. This practice must use best management practices as outlined in the Natural Resources Conservation Service Conservation Practice Standard "Land reclamation, Currently Mined Land," Code 544 or the Natural Resources Conservation Service Conservation Practice Standard "Critical Area Planting" Code 342, as determined by the ERC. Notification of this practice must be given to the ERC in a timely manner. This also includes the removal of earth for sale, trade or other considerations, under this section, less than 1,000 cubic yards per year.

#### **§ 136-9. Nuisance conditions.**

If the ERC believes that there is a violation of approved plans, specifications and conditions, or believes that the actual conditions or operations on the premises constitute a nuisance or public danger, the ERC shall order the operator to immediately cease and desist specific activities or the entire operation, pending a review at a posted public meeting after at least 48 hours' notice thereof to the operator, which meeting shall be held within seven days following the initial ERC order. If the violation is immediately brought into compliance, as determined by the ERC and/or its agent, then no public hearing will be necessary. However, the applicant shall have the right to request a public hearing at any time during the review of any purported violation of approved plans. If, after review, the ERC is satisfied that the alleged violation, nuisance, or public danger was corrected or unfounded, it shall revoke or revise its cease and desist order as appropriate. If after such review the ERC finds that the permit conditions may be inadequate to protect the public interest and to carry out the purpose of this by-law, or that a conditionally exempt earth removal activity may require the imposition of conditions to protect the public interest, it shall schedule a public hearing upon the same notice and hearing requirements as for an original permit. Seven days after the operator receives certified mail notice, the ERC may revise, revoke, or continue the permit or permit conditions after such hearing, or may impose permit conditions on a previously exempt operation.

#### **§ 136-10. Existing operations.**

All existing earth removal operations shall comply with this by-law after 60 days of the effective date of the Annual Town Meeting vote hereof, or prior to the applicant's annual review whichever comes later and no further earth shall be removed after that date without a permit hereunder. The Earth Removal Committee shall hear and decide all applications from existing earth removal operations before the expiration of 60 days following the effective date of this by-law, if a complete application thereof is received by the Earth Removal Committee within 30 days following said effective date.

**§ 136-11. Enforcement; violations and penalties.**

- A. The enforcement officer for the provisions of this by-law shall be the ERC or its designee of the Town of Carver.
- B. Criminal penalty. Any person who violates any provision of this by-law, regulation, order or permit issued there under, shall be punished by a fine of not more than \$100 each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- C. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter 1, Article I, of the Town of Carver By-laws, in which case Zoning Enforcement Officer of the Town shall be the enforcing person. The penalty for the first violation shall be \$100. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. If any earth shall be removed without obtaining earth removal permit or otherwise in violation of this chapter, the ERC may order the restoration of the property involved in accordance with the provisions of this chapter. Such an order of restoration will not constitute a waiver of any other fines or penalties for such violations. Anyone aggrieved by such order may within seven days of the receipt thereof may request a hearing before the ERC to be held within 30 days. At such hearing the Board may modify, rescind, or uphold its order. The Board's order, if not appealed within seven days of receipt, or as modified, rescinded, or upheld after hearing shall be deemed final action by the ERC.

**§ 136-12. Severability.**

The provisions of this by-law are severable; and if any provision or application of such provision to any person or circumstance is held invalid or unconstitutional, this shall not affect the remaining provisions.



## Chapter 141

### FARMING

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| <p>§ 141-1. Legislative purpose and intent.</p> <p>§ 141-2. Definitions.</p> <p>§ 141-3. Right to farm declaration.</p> | <p>§ 141-4. Disclosure notification.</p> <p>§ 141-5. Resolution of disputes.</p> <p>§ 141-6. Severability clause.</p> |
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**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 9, § 9.5, of the 2015 Compilation. Amendments noted where applicable.]**

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#### § 141-1. Legislative purpose and intent.

- A. The purpose and intent of this by-law is to state with emphasis the right to farm accorded to all citizens of the commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to MGL c. 40A, § 3, Paragraph 1; MGL c. 90, § 9, MGL c. 111, § 125A; and MGL c. 128, § 1A. We the citizens of Carver restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment").
- B. This general by-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmland within the Town of Carver by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This by-law shall apply to all jurisdictional areas within Town.

#### § 141-2. Definitions.

- A. The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.
- B. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:
  - (1) Farming in all its branches and the cultivation and tillage of the soil;
  - (2) Dairying;
  - (3) Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
  - (4) Growing and harvesting of forest products upon forest land, and any other forest or lumbering operations;
  - (5) Raising of livestock, including horses;
  - (6) Keeping of horses as a commercial enterprise; and keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as

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llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

C. "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 plant and animals;
- (3) Application of manure, fertilizers and pesticides;
- (4) Conducting agriculture-related educational and farm-based recreational activities, including agritourism, 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; and
- (7) On-farm relocation of earth and the clearing of ground for farming operations.

#### **§ 141-3. Right to farm declaration.**

The right to farm is hereby recognized to exist within the Town of Carver. 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 by-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

#### **§ 141-4. Disclosure notification.**

- A. Within 30 days after this by-law becomes effective, the Select Board shall prominently post in the Town Hall and make available for distribution the following disclosure:



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"It is the policy of this community 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 buyers and occupants that the property they are about to acquire or occupy lies within a Town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers and occupants are also informed that the location of property within the Town may be impacted by commercial cultural operations including the ability to access water services for such property under certain circumstances."

- B. In addition to the above, copies of this disclosure notification shall be available in a public area at the Town Hall.

**§ 141-5. Resolution of disputes.**

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have.

- A. The Zoning Enforcement Officer or Select Board shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed-upon time frame.
- B. The Board of Health, except in cases of imminent danger or public health risk, shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed-upon time frame.

**§ 141-6. Severability clause.**

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



## Chapter 145

### FEES AND CHARGES

**§ 145-1. Board of Health garbage removal fees.**

**§ 145-2. General authority to establish fees.**

**§ 145-3. Fees of sealers.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 2, § 2.3, 2.4; Ch. 10, § 10.3, of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 145-1. Board of Health garbage removal fees.**

The Board of Health is charged with collecting users fees to reimburse the Town for costs, including monitoring costs, associated with the landfilling of waste and other material within the Town of Carver. Such waste may be collected within or outside the Town of Carver. The fees will be set on a tonnage basis and collected in conjunction with the enforcement of regulations promulgated under MGL c. 111, §§ 31A and 31B.

**§ 145-2. General authority to establish fees. [Amended 4-22-2019 ATM by Art. 15]**

- A. Other than as specifically set forth herein, any Town board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to statutes or regulations wherein the entire proceeds of the fee remain with the Town, and may fix reasonable charges to be paid for any services rendered or work performed by the Town or any department thereof; provided, however, that in the case of a board or officer appointed by an elected board, the fixing of such fee shall be subject to the review and approval of such elected board, and in the case of any other board or officer, the fixing of such fee shall be subject to the review and approval of the Select Board or its designee.
- B. No fee shall be imposed or increased until a public hearing is held with respect thereto and such new or revised fee is then posted at the office of the Town Clerk for at least two weeks prior to the effective date thereof.
- C. All fees in effect immediately prior to the effective date of this by-law shall continue to be applicable until revised as provided hereunder.
- D. Fee schedules shall be posted in the office of the Town Clerk and in the office of the officer or board imposing the fee.

**§ 145-3. Fees of sealers.**

The Sealer of Weights and Measures shall receive the following fees for sealing the following weighing or measuring devices:

- A. Each scale with a weighing capacity of more than 10,000 pounds: \$50.
- B. Each scale with a weighing capacity of 5,000 to 10,000 pounds: \$30.
- C. Each scale with a weighing capacity of 1,000 to 5,000 pounds: \$20.
- D. Each scale with a weighing capacity of 100 to 1,000 pounds: \$10.
- E. Scales and balances with a weighing capacity of 10 pounds and less than 100 pounds: \$10.
- F. Scales and balances with a weighing capacity of 10 pounds or less: \$10.
- G. Each liquid capacity measure, except vehicle tanks, of the capacity of more than one gallon and measures on pumps: \$5.
- H. Each liquid measuring meter, except water meters, the diameter of the inlet pipe of which is 1/2 inch or less, \$10; more than 1/2 inch but not more than one inch, \$10; for each such type of liquid measuring meter, the diameter of the inlet pipe of which is more than one inch, the following shall apply: vehicle-tank pump \$25, vehicle-tank gravity \$20, bulk storage \$50, bulk storage user furnishes certified proven, \$10.
- I. Each taximeter or measuring device used upon vehicles to determine the cost of transportation: \$20.
- J. Each machine or other mechanical device used for determining linear or area measurement: \$10.
- K. Milk bottles or jars: \$10 per gross.
- L. Vehicle tanks used in the sale of commodities by liquid measure shall be charged for each hundred gallons or fraction thereof, \$10. An additional fee of \$10 per sealed indicator shall be received.
- M. All weights and other measures: \$1.

## **Chapter 150**

### **FLEA MARKETS**

#### **§ 150-1. Permit required.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 8, § 8.3, of the 2015 Compilation; amended in its entirety 4-19-2022 ATM by Art. 29. Subsequent amendments noted where applicable.]**

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#### **§ 150-1. Permit required.**

All flea markets held in the Town of Carver shall require a permit issued by the Select Board, at no charge.



## **Chapter 159**

### **GARAGES, COMMERCIAL**

**§ 159-1. License required.**

**§ 159-3. Transfer of license.**

**§ 159-2. Restrictions; fees.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 8, § 8.5, of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 159-1. License required.**

Any person who maintains a commercial garage with facilities for the repair, maintenance, alteration, or towing of motor vehicles, or motor vehicle parts, shall first obtain a license from the Select Board after a public hearing. The applicant, at his own cost, shall give notice of the public hearing to all abutters at least seven days prior to the hearing.

**§ 159-2. Restrictions; fees.**

The Select Board shall have the authority to set reasonable restrictions on any license so voted and establish a reasonable fee for said license. Each license so voted shall be renewable annually on January 1.

**§ 159-3. Transfer of license.**

A license granted under this by-law may be transferred by the Select Board in the same manner as the issuance of a new license.





## Chapter 166

### HISTORIC DISTRICTS

#### ARTICLE I Commission and Districts

- § 166-1. Name.
- § 166-2. Purpose.
- § 166-3. Authority.
- § 166-4. Membership.
- § 166-5. Administration of historic districts.
- § 166-6. Lakenham District.
- § 166-7. Savery District.
- § 166-8. Additional duties of Historic District Commission.

#### ARTICLE II Demolition Delay

- § 166-9. Intent and purpose.
- § 166-10. Definitions.
- § 166-11. Procedure.
- § 166-12. Administration.
- § 166-13. Emergency demolition.
- § 166-14. Enforcement and remedies.
- § 166-15. Historic District Act.
- § 166-16. Severability.

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

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#### ARTICLE I Commission and Districts [Adopted as § 4.6 of the 2015 Compilation]

##### § 166-1. Name.

This by-law shall be known and may be cited as the Historic Districts By-law under the authority of Massachusetts General Laws Chapter 40C, as amended.

##### § 166-2. Purpose.

The purpose of this by-law is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town of Carver or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

##### § 166-3. Authority.

There is hereby established an Historic District Commission, under the provision of Massachusetts General Laws Chapter 40C, as amended by Chapter 168, Acts of 1975, consisting of five members and three alternate members to be appointed by the Town Administrator.

**§ 166-4. Membership.**

- A. When the Historic District Commission is first established, one member shall be appointed for a term of one year, two shall be appointed for a term of two years and two shall be appointed for a term of three years and their successors shall be appointed in like manner for terms three years. When the Historic District Commission is first established, one alternate member shall be appointed for a term of one year, one alternate member shall be appointed for a term of two years, one alternate member shall be appointed for a term of three years and their successors shall be appointed in like manner for terms of three years.
- B. The membership of the Historic District Commission shall be made up as follows:
  - (1) One member, if possible, from two nominees submitted by the Carver Historical Society or the Society for the Preservation of the New England Antiquities;
  - (2) One member, if possible, from two nominees submitted by the Massachusetts State Chapter of the American Institute of Architects;
  - (3) One member, if possible, from two nominees submitted by the Boston Chapter of the American Society of Landscape Architects;
  - (4) One member, if possible, from two nominees submitted by the Plymouth County Board of Realtors;
  - (5) One member, if possible, from two nominees submitted by the Bar Association serving Carver;
  - (6) One member, if possible, a resident of the Historic District;
  - (7) The remaining members without designation.
- C. The District Commission shall elect annually a Chairperson and Vice Chairperson from its own number and a Secretary from within or without its number.
- D. Alternates shall have all the powers and duties of regular members when called to serve by the Chairperson or Vice Chairperson of the Commission.
- E. All members and alternates shall serve without compensation.

**§ 166-5. Administration of historic districts.**

- A. No building or structure within the Historic District shall be constructed, demolished, moved or altered in any way that affects exterior architectural features and no building shall be moved into an Historic District unless the Commission shall first have issued a certificate of appropriateness, a certificate of hardship or a certificate of nonapplicability with respect to such construction, alteration or movement. The Building Inspector shall not issue a permit within an Historic District unless one of the certificates noted above has first been issued by the District Commission or the proposed improvement is exempted from these provisions by the following:
- B. Exemptions to Review: The Authority of the District commission is not extended to the review of the following:

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- (1) Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify.
  - (2) Terraces, walks, driveways, sidewalk and steps, or any one or more of them, provided that any such structure is substantially at grade level.
  - (3) Storm doors, screens, window air conditioning, and antennae.
  - (4) Paint or stain of any color.
  - (5) Materials of uniform color used on roofs.
  - (6) Signs of not more than 150 square inches in area in connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated only indirectly.
  - (7) Reconstruction of a building, structure or exterior architectural feature which has been damaged or destroyed by fire, storm or other disaster, provided that the exterior design is substantially similar to the original.
- C. The District Commission shall have all the powers of an Historic District Commission as described in Chapter 40C of the Massachusetts General Laws. The Commission shall adopt rules and regulations for the conduct of its business, not inconsistent with Massachusetts General Laws Chapter 40C, or with the purpose of this by-law.
  - D. The District Commission may receive and accept appropriations, grants, and gifts for the furthering of the purposes of this by-law. It may establish an historic marker program, publish guides, maps, and other appropriate publications to illustrate historical and architectural resources of the Historic District and administer any properties or lesser interests which may be acquired.
  - E. The District Commission shall propose changes in the Carver Historic District boundaries and additional historic districts, as it deems appropriate. Massachusetts General Laws Chapter 40C will guide the procedures for these activities.
  - F. The District Commission shall coordinate historic preservation activities, and oversee the preparation and implementation of historic preservation plans.
  - G. The District Commission shall provide assistance to owners of historic structures on matters pertaining to preservation.

**§ 166-6. Lakenham District.**

- A. There is hereby established an Historic District to be known as the Lakenham Historic District under the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C, bounded and described as follows:

Beginning at the intersection of Gates Street and Plymouth Street (Route 44), the district heads in a westerly direction along Plymouth Street, encompassing the dwellings and some portion of the land on both sides of Plymouth Street until it reaches

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the Lakenham Green. The district encompasses all of the properties surrounding the Green. The district encompasses all of the properties surrounding the Green, as well as the Green itself. The district continues past the Green along Plymouth Street to the intersection with Route 58, crosses Route 58 and includes the first properties past the intersection on both the north and south sides of Plymouth Street. The district also includes the buildings and properties along Main Street (Green Street) for a distance of approximately 400 feet from the Green in a southwest direction. In total, the proposed district covers approximately 75 acres of land and encompasses one mile of heavily traveled Route 44.

- B. The boundaries are hereby established as shown on the map entitled "Lakenham Historic District" dated April 1980 which accompanies and is hereby declared to be a part of the by-law.

#### **§ 166-7. Savery District.**

- A. There is hereby established an Historic District to be known as the Savery Historic District under the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C, bounded and described as follows:

Beginning at a point about 100 m south of the intersection of Main Street, (Main Street is also known as S. Main, Rochester Road, Plymouth Street and Route 58) and Meadow Street, the district heads in a southerly direction along Main Street until it reaches the intersection of Shaw Road and Main Street where the district terminates. The district encompasses the buildings and some portion of the land on both sides of the route just described.

- B. The boundaries are hereby established as shown on the map entitled "Savery Historic District" dated February 1981 which accompanies and is hereby declared to be a part of the by-law.
- C. The authority of the Commission shall be limited to exterior architectural features which are subject to view from Main Street (Route 58), Savery Avenue and the Union Cemetery.

#### **§ 166-8. Additional duties of Historic District Commission. [Added 4-11-2016 ATM by Art. 11]**

- A. In addition to the powers and duties set forth in this article, the Commission shall have all of the powers and duties vested by the Massachusetts General Laws, Town by-laws, Town Meeting votes and/or votes of the Select Board in the Historical Commission, Lakenham Green Preservation Committee and Marcus Atwood House Trustees and shall act as the same.
- B. The Commission may create one or more subcommittees to serve in an advisory capacity and to make recommendations concerning the expenditure of funds relative to matters previously assigned to the Historical Commission, Lakenham Green Preservation Committee and/or Marcus Atwood House Trustees.

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- C. Any funds held by the Town as of the effective date of this by-law, whether received, as gifts, grants, or donations, for matters previously assigned to the Historical Commission, Lakenham Green Preservation Committee and Marcus Atwood House Trustees, shall continue to be held and accounted for separately and shall only be expended for their designated purposes, all as required, and to the extent permitted by law.

## ARTICLE II

**Demolition Delay****[Adopted as Ch. 4, § 4.6.8, of the 2015 Compilation]****§ 166-9. Intent and purpose.**

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

**§ 166-10. Definitions.**

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

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

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

**BUILDING** — Any combination of materials forming a shelter for persons, animals, or property.

**BUILDING COMMISSIONER** — The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

**COMMISSION** — The Carver Historical Commission or its designee.

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

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

**PREFERABLY PRESERVED** — Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the six-month demolition delay of this by-law.

**SIGNIFICANT BUILDING** — Any building within Carver which is in whole or in part 100 years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- A. The building is listed on, or is within an area listed on, the National Register of Historic Places; or
- B. The building has been found eligible for the National Register of Historic Places; or
- C. The building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of Carver or the Commonwealth; or
- D. The building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

**§ 166-11. Procedure.**

- A. No demolition permit for a building which is in whole or in part 100 years or more old shall be issued without following the provisions of this by-law. If a building is of unknown age, it shall be assumed that the building is over 100 years old for the purposes of this by-law.
- B. An applicant proposing to demolish a building subject to this by-law shall file with the Building Commissioner an application containing the following information:
  - (1) The address of the building to be demolished.
  - (2) The owner's name, address and telephone number.
  - (3) A description of the building.
  - (4) The reason for requesting a demolition permit.
  - (5) A brief description of the proposed reuse, reconstruction or replacement.
  - (6) A photograph or photographs of the building.
- C. The Building Commissioner shall within seven days forward a copy of the application to the Commission. The Commission shall within 15 days after receipt of the application, make a written determination of whether the building is significant.

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- D. Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.
- E. Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Commissioner within 15 days of receipt of the application, the Building Commissioner may proceed to issue the demolition permit.
- F. If the Commission finds that the building is significant, it shall hold a public hearing within 30 days of the written notification to the Building Commissioner. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in Town Hall for a period of not less than seven days prior to the date of said hearing and the applicant and the Building Commissioner shall be notified in writing of the meeting time and place.
- G. The Commission shall decide at the public hearing or within 14 days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.
- H. If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.
- I. If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may then be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within 21 days of the public hearing, the Building Commissioner may issue the demolition permit.
- J. Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no demolition permit may be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission.
- K. During the six-month delay period, the applicant or the owner may work with the Commission to develop plans or locate a purchaser to preserve, rehabilitate or restore the subject building.
- L. Notwithstanding anything contained in this by law, the Building Commissioner may issue a demolition permit for a preferably preserved building during the six-month delay period if the Commission notifies the Building Commissioner and the applicant in writing that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building.
- M. The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the six months if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this by-law is served even with the issuance of the demolition permit or the building permit.

- N. Following the six-month delay period, the Building Commissioner may issue the demolition permit.

**§ 166-12. Administration.**

- A. The Commission may adopt such rules and regulations as are necessary to administer the terms of this by-law. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this by-law.
- B. The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee.
- C. The Commission may proactively develop a list of significant buildings that will be subject to this by-law. Buildings proposed for the significant building list shall be added following a public hearing.

**§ 166-13. Emergency demolition.**

If after an inspection, the Building Commission finds that a building subject to this by-law is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Commissioner may issue an emergency demolition permit to the owner or the building or structure. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for his decision which shall be forwarded to the Commission.

**§ 166-14. Enforcement and remedies.**

- A. The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.
- B. Any owner of a building subject to this by-law that demolished the building without first obtaining a demolition permit in accordance with the provisions of this by-law shall be subject to a fine of not more than \$300. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission. Such violations may be enforced by the noncriminal procedure authorized by MGL c. 40, § 21D.
- C. If a building subject to this by-law is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.



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**§ 166-15. Historic District Act.**

Following a determination that the building is significant and preferably preserved, the Commission may recommend to Town Meeting that the building be protected through the provisions of Massachusetts General Laws Chapter 40C, the Historic Districts Act. The steps required under Massachusetts General Laws Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that Act shall prevail.

**§ 166-16. Severability.**

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



## Chapter 182

### LICENSES AND PERMITS

#### ARTICLE I

##### Denial or Revocation for Delinquent Taxpayers

- § 182-1. Authority to deny or revoke; conditions.
- § 182-2. List of delinquent taxpayers.
- § 182-3. Authority; notice.
- § 182-4. Payment agreements.
- § 182-5. Waiver by Select Board.
- § 182-6. Exceptions.
- § 182-7. Reissuance or renewal of license or permit.

#### ARTICLE II

##### Civil Fingerprinting

- § 182-8. Purpose and scope.
- § 182-9. Regulations.
- § 182-10. Definitions.
- § 182-11. Criminal history check authorization.
- § 182-12. Standards for licensing authority use of criminal record.
- § 182-13. Fee.
- § 182-14. When effective.

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

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#### ARTICLE I

##### Denial or Revocation for Delinquent Taxpayers [Adopted as Ch. 8, § 8.1, of the 2015 Compilation]

##### § 182-1. Authority to deny or revoke; conditions.

Every Town of Carver licensing authority (including without limitation every Town board, officer and department) may deny any application for, or revoke or suspend any local license or permit including renewals and transfers for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges or with respect to any activity, event or other matter subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees assessments, betterments or any other municipal charges. Such denial, revocation, or suspension shall be subject to the following limitations:

- A. The name of the person, corporation or business enterprise affected shall appear on a list furnished to the licensing authority as required in § 182-2 of this by-law.
- B. A hearing after due notice is afforded the affected person, corporation, or business enterprise as is required in § 182-3 of this by-law.
- C. The affected person, corporation or business enterprise has been given notice of the opportunity to enter into an agreement as provided in § 182-4 of this by-law.

**§ 182-2. List of delinquent taxpayers.**

The Tax Collector and all other Town officials responsible for records of all Town taxes, assessments, betterments and other Town charges shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other town 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.

**§ 182-3. Authority; notice.**

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is subject of such license or permit and which activity, event or matter is carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said notice shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation, or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension.

**§ 182-4. Payment agreements.**

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.

**§ 182-5. Waiver by Select Board.**

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

**§ 182-6. Exceptions.**

This by-law shall not apply to the following licenses and permits: open burning, MGL 48, § 13; bicycle permits, section eleven A of chapter eighty-five<sup>1</sup>; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one 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.

**§ 182-7. Reissuance or renewal of license or permit.**

Any license or permit denied, suspended or revoked under this article 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 Town taxes, fees, assessments, betterments or other municipal charges, payable to the Town as the date of issuance of said certificate.

## ARTICLE II

**Civil Fingerprinting**

**[Adopted 6-29-2020 ATM by Art. 10]**

**§ 182-8. Purpose and scope.**

To enhance public safety, this by-law authorizes the Police Department to conduct state and national fingerprint-based criminal history checks for individuals applying for specific Town-issued licenses or permits, as authorized by MGL c. 6, § 172B 1/2; provided, however, that such records shall not be disseminated to unauthorized entities and shall be maintained and disclosed in accordance with all applicable law.

**§ 182-9. Regulations.**

The Select Board, in consultation with the Chief of Police, is authorized to promulgate regulations to implement this by-law, which regulations may include, but shall not be limited to: establishment of submission deadlines, procedures for making recommendations to the licensing authority or making a licensing determination as a result of the criminal history check, procedures for assessing, correcting or amending any such record and establishing criteria for fitness determinations, confidentiality of information obtained and penalties for failure to comply with this by-law.

**§ 182-10. Definitions.**

**CRIMINAL HISTORY CHECK** — A state and national fingerprint based criminal history background check, as authorized by MGL c. 6, § 172B 1/2.

**DCJIS** — The Massachusetts Department of Criminal Justice Information Services.

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1. Editor's Note: MGL c. 85, § 11A, was repealed in 2008.

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FBI — The Federal Bureau of Investigation, United State Department of Justice.

LICENSE — A license or permit issued by the Town of Carver, or any board, officer or department thereof, which is identified in this by-law.

LICENSING AUTHORITY — A board, officer or department of the Town of Carver authorized by the General Laws of Massachusetts or Town by-law to issue a license or permit listed in this by-law.

TOWN — The Town of Carver, Massachusetts.

**§ 182-11. Criminal history check authorization.**

- A. Occupational licenses. The Police Department shall, as authorized by MGL c. 6, § 172B 1/2, conduct state and federal fingerprint-based criminal history checks for individuals and entities for the following occupational licenses:
  - (1) Hawking and peddling, solicitor or other door-to-door salespeople;
  - (2) Hackney and livery drivers;
  - (3) Ice cream truck or other mobile food vendors;
  - (4) Managers of establishments to sell alcoholic beverages or tobacco products;
  - (5) Dealers in secondhand articles; and
  - (6) Pawn dealers.
- B. At the time of fingerprinting, the Police Department shall notify the individual being fingerprinted that the fingerprints will be used to check the individual's criminal history records and shall obtain the individual's consent in writing prior to conducting such criminal history checks.
- C. Following receipt of an applicant's executed consent form and payment of the applicable fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this by-law to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI or the successors of such agencies to conduct a criminal history check.
- D. The Town authorizes the Massachusetts State Police, DCJIS and the FBI, or the legal successor of each, to conduct fingerprint-based state and national criminal history checks consistent with this by-law.
- E. The Town authorized the Police Department to receive and utilize state and FBI records in connection with such criminal history checks, consistent with this by-law and the Town's implementing regulations.
- F. In accordance with applicable implementing regulations, the Police Department shall communicate the results of fingerprint-based criminal history checks to the appropriate licensing authority.

**§ 182-12. Standards for licensing authority use of criminal record.**

- A. A licensing authority is authorized hereunder to utilize the results of fingerprint-based criminal history checks exclusively for the limited purpose of determining the suitability of a license applicant in connection with an application for a license identified in this by-law or for its renewal or transfer.
- B. A licensing authority may, at its sole discretion, deny a license application on the basis of the results of a fingerprint-based criminal history check if it determines that the results of the check render the subject unsuitable for the proposed licensed activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.
- C. A licensing authority is hereby authorized to deny an application for any license specified herein, including renewals and transfers of said licenses, from any person who is determined to be unsuitable for the license due to information obtained pursuant to this by-law.
- D. Factors that shall be considered in making a determination of suitability shall include conviction of, or under pending indictment for, a felony or a misdemeanor that involved force or threat of force, possession of a controlled substance, a sex-related offence, or other crime that bears upon the subject's ability of fitness to exercise such license.

**§ 182-13. Fee.**

The fee for conducting a fingerprint-based criminal history check shall be \$100 for each check. That portion of the fee specified in MGL c. 6, § 172B 1/2, shall be deposited into the Commonwealth of Massachusetts Firearms Fingerprint Identify Verification Trust Fund. The remainder of the fee is to be applied by the Town for costs associated with the administration of the fingerprinting program.

**§ 182-14. When effective.**

This by-law shall take effect in accordance with MGL c. 40, § 32.





## Chapter 190

### MARIJUANA AND TETRAHYDROCANNABINOL

**§ 190-1. Public consumption prohibited.**      **§ 190-3. Identification of violator.**

**§ 190-2. Seizure of evidence.**      **§ 190-4. Violations and penalties.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 6, § 6.9, of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 190-1. Public consumption prohibited.**

No person, whether in or upon a vehicle, motor vehicle, conveyance, or on foot, shall burn, smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) while in or upon any area owned by or under the control of the Town, including, but not limited to, any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school, school grounds, cemetery, or parking lot; or in or upon any place to which the public has a right of access as invitees or licensees.

**§ 190-2. Seizure of evidence.**

Any marijuana or tetrahydrocannabinol burned, smoked, ingested, or otherwise used or consumed in violation of this by-law shall be seized, held, and disposed of in accordance with MGL c. 94C, § 47A.

**§ 190-3. Identification of violator.**

Whoever is found in violation of this by-law shall, when requested by an official authorized to enforce this by-law, state his true name and address to said official.

**§ 190-4. Violations and penalties.**

- A. This by-law may be enforced through any lawful means in law or in equity, including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21, or by noncriminal disposition pursuant to MGL c. 40, § 21D, by the Select Board, the Town Administrator, or their duly authorized agents, or any police officer.
- B. The fine for a violation of this by-law shall be \$300 for each offense. A penalty imposed under this by-law shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.



## Chapter 203

### PARKING

#### § 203-1. Prohibited parking locations.

#### § 203-2. Handicapped parking.

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 6, §§ 6.2 and 6.3, of the 2015 Compilation. Amendments noted where applicable.]**

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#### § 203-1. Prohibited parking locations.

No person shall park a vehicle in any of the following places or at any of the following times and vehicles found parked in violation of the provisions of this section may be moved by or under the direction of a police officer and at the expense of the owner to a place where parking is permitted upon the traveled ways within the Town of Carver while the Town is engaged in the removal of snow from said ways whether with Town or hired equipment.

#### § 203-2. Handicapped parking.

- A. Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping mall, theaters, auditoriums, sporting or recreational facilities, cultural centers or for any other place where the public has a right of access as invitees or licensees, shall reserve park spaces in said off-street parking area for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by MGL c. 90, § 2, according to the following formula:

If the number of parking spaces in any such area is more than 25, one parking space; more than 25 but not more than 45% of such spaces but not less than two<sup>1</sup>; more than 40 but not more than 100, 4% of such spaces but not less than three; more than 100 but not more than 200, 3% of such spaces but not less than four; more than 200 but not more than 500, 2% of such spaces but not less than six; more than 500 but not more than 1,000, 1 1/2% of such spaces but not less than 10; more than 1,000 but not more than 2,000, 1% of such spaces but not less than 15; more than 2,000 but less than 5,000, 3/4 of 1% of such spaces but not less than 20; and more than 5,000, 1/2 of 1% of such spaces but not less than 30.

- B. Parking spaces designated as reserved under the provisions of Subsection A shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required, Unauthorized Vehicles May be Removed at Owner's Expense"; shall be near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be 12 feet wide or two eight-foot-wide areas with four feet of cross hatch between them.

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1. Editor's Note: So in original; should read "more than 25 but not more than 40."

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- C. No vehicle shall be left parked or standing in any area designated for use by disabled veterans or handicapped persons as authorized by Subsection A, or in such manner as to obstruct a curb or ramp designed for use by handicapped persons as a means of egress to a street or public way.
- D. The penalty for violation of this by-law shall be as follows: for the first offense, \$15; for the second offense, \$25; for each subsequent offense, the vehicle may be removed according to the provisions of the Massachusetts General Laws Chapter 266, Section 120D.

## **Chapter 207**

### **PARKS AND RECREATION AREAS**

#### **ARTICLE I**

##### **Use of Ponds and Lakes**

- § 207-1. Beach access to water.**
- § 207-2. Disorderly conduct.**
- § 207-3. Solid waste.**
- § 207-4. Bathing attire.**
- § 207-5. Fishing.**

- § 207-6. Nonmotorized boats.**
- § 207-7. Motorized boats.**
- § 207-8. Enforcement; violations and penalties.**
- § 207-9. Exceptions.**
- § 207-10. Motorboat speed limit.**
- § 207-11. Operation of vehicles on frozen bodies of water.**

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

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#### **ARTICLE I**

##### **Use of Ponds and Lakes**

**[Adopted as Ch. 6, § 6.6, of the 2015 Compilation]**

##### **§ 207-1. Beach access to water.**

No person shall enter or leave the ponds or lakes in Carver in which bathing is permitted except at beaches where the Town owns the land, or at such other places as the Select Board may specially designate, except abutters, their guests and servants on their own respective beaches.

##### **§ 207-2. Disorderly conduct.**

No person shall in or on the lakes and ponds in Carver, or upon any land bordering thereon annoy another person or utter any profane, threatening, abusive or indecent language, or loud outcry, or do any obscene or indecent act or commit a nuisance.

##### **§ 207-3. Solid waste.**

No person shall throw, drop, place or deposit in the water or on any beach any waste papers, glass rubbish, refuse or garbage.

##### **§ 207-4. Bathing attire.**

No person shall bathe in the lakes and ponds in Carver in which bathing is permitted unless properly attired.

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**§ 207-5. Fishing.**

Fishing in the lakes and ponds of Carver is subject to the existing rules and regulations of the Commonwealth of Massachusetts pertaining to fishing, and rules and regulations of any body of water used for domestic water supply.

**§ 207-6. Nonmotorized boats.**

Rowboats, canoes and sailing boats will have the right-of-way at all times in any part of the lakes.

**§ 207-7. Motorized boats.**

- A. No person shall run, drive or operate any boat, canoe or any type of water vehicle propelled by steam, naphtha, gasoline, electricity or any motor or engine upon the lakes or ponds within the Town of Carver:
- (1) In a reckless, careless, or negligent manner as that the lives and safety of the public might be endangered.
  - (2) At a speed exceeding 10 miles per hour.
  - (3) Within 50 yards of any bathing beach or diving raft.
  - (4) Within 50 feet of any rowboat, sailboat, or canoe, except where docking or where the width of the waterway prevents such distance, in which event speed shall be reduced accordingly.
- B. The Select Board may prohibit the use of any boat, canoe or any type of water vehicle propelled by steam, naphtha, gasoline, electricity or any motor or engine upon any or all of the lakes and ponds within the Town of Carver for such period as is determined by the Select Board for the health and sanitation of those using the lakes and ponds, and the Select Board of the Town of Carver shall have the exclusive authority and absolute discretion to determine the reasons for which such a prohibition will be invoked and enforced.

**§ 207-8. Enforcement; violations and penalties.**

The above rules and regulations are to be enforced by an authorized police official of the Town of Carver and the violation of any rule or regulation established under this act shall be punished by fine of not more than \$20.

**§ 207-9. Exceptions.**

The above regulations do not apply to use of lakes by boats involved in rescue operations by aircraft in emergencies or by police in the course of their duties.

**§ 207-10. Motorboat speed limit.**

To decrease the speed limit for motorboats on all bodies of water within the Town of Carver from 45 mph to 35 mph.

**§ 207-11. Operation of vehicles on frozen bodies of water.**

- A. No motor vehicle, as defined by MGL c. 90, § 1, shall be driven, towed, or pushed upon a frozen surface of any pond, lake, river, brook, stream or other permanent or semipermanent body of water to which the public has a right of access and which is situated within the boundary lines of the Town of Carver. Any owner or operator of such vehicle refusing to remove such vehicle from such frozen surface after being ordered to do so by a police officer shall be subject to immediate arrest without warrant and said vehicle shall be towed there from at the expense of the owner.
- B. Any violation of this section shall be punishable by a fine not exceeding \$200.
- C. This section shall not apply to such vehicle as shall be designated by the Select Board, Police Chief, Fire Chief, or Commissioner of Public Works as emergency vehicles when operated by duly authorized personnel in the course of an official emergency operation. This section shall not apply to motorized equipment used for the maintenance and harvest of the cranberry industry.





## Chapter 211

### PAWNBROKERS AND SECONDHAND DEALERS

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| <p>§ 211-1. Purpose.</p> <p>§ 211-2. Definitions.</p> <p>§ 211-3. Licensing authority.</p> <p>§ 211-4. License required; application requirements.</p> <p>§ 211-5. Transaction records.</p> <p>§ 211-6. Identification of sellers required; business with person under the influence prohibited.</p> | <p>§ 211-7. Holding period for purchases and pawns.</p> <p>§ 211-8. Reports of transactions.</p> <p>§ 211-9. Inspection of records and premises.</p> <p>§ 211-10. Violations.</p> <p>§ 211-11. Penalties.</p> <p>§ 211-12. Severability.</p> |
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**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 8, § 8.6, of the 2015 Compilation. Amendments noted where applicable.]**

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#### § 211-1. Purpose.

This by-law is adopted for the purpose of regulating transactions in items which have been historically shown to be subject to theft and illicit transfer. The function of this by-law is to discourage such theft and illicit transfer from occurring within the Town and to mandate the keeping of certain records which will assist victims of theft in recovering their stolen property and which will assist law enforcement authorities in the apprehension of perpetrators of theft and detection of regulated parties intentionally transacting business in stolen property. This chapter has been enacted pursuant to the authority granted to the Town of Carver by MGL c. 140, §§ 54 to 55, 70 to 84, and 202 to 205.

#### § 211-2. Definitions.

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

**COMMODITY METALS** — Any metal traded on the commodity market, including, but not limited to, gold, silver, platinum, brass, copper, copper alloy, aluminum, stainless steel, rhodium, palladium, titanium and magnesium.

**PAWNBROKER** — Any person, firm, partnership, or corporation whose business includes any transaction wherein there is the lending of money secured by taking possession of property, with interest charged thereon, with the right to sell the property if it is not redeemed. A person, firm, partnership or corporation shall be deemed to be a pawnbroker whether the transaction takes the form of a loan by the pawnbroker secured by the property or a sale to the pawnbroker with the right to repurchase within a specified period of time. Pawnbrokers are regulated according to MGL c. 140, §§ 70 to 84 and 202 to 205.

**PERSON** — Any natural person, two or more natural persons acting in concert, corporations, partnerships, associations, joint-stock companies and all other entities of any kind.

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**PROPERTY** — Anything of value, including but not limited to jewelry, watches, clocks, diamonds or other precious stones or gems, gold, silver, platinum, other precious metals or commodity metals, musical instruments and equipment, cameras, furs, fur coats or other kinds of wearing apparel, televisions, DVD players, videocassette recorders and other electronic equipment, tools, computers and computer equipment, firearms, auto accessories and office and store fixtures and related equipment.

**SECONDHAND DEALER** — Any person, firm, partnership or corporation whose business is the retail buying, selling, buyback, exchanging, dealing in or dealing with secondhand articles and property. Secondhand dealers are regulated according to MGL c. 140, § § 54 to 55 and 202 to 205.

### **§ 211-3. Licensing authority.**

The Select Board may license such persons as it deems suitable to be pawnbrokers or secondhand dealers within the Town. All licenses so granted shall contain a clause that the person so licensed agrees to abide by and be subject to all provisions of this by-law and applicable provisions of the Massachusetts General Laws, as may be from time to time amended.

### **§ 211-4. License required; application requirements.**

No person, firm, partnership or corporation shall operate, conduct or engage in business as a pawnbroker or secondhand dealer unless such person, firm, partnership or corporation obtains a license from the Town of Carver through the Select Board in accordance<sup>1</sup> MGL c. 140, §§ 54 to 55, 70 to 84, and 202 to 205, respectively. Applications for licenses for pawnbrokers or secondhand dealers shall be made in writing to the Town of Carver on forms provided by the Town of Carver.

- A. **Investigation of applicant.** All applications shall be submitted by the Select Board to the Chief of Police, who shall cause an investigation to be made of the fitness of the applicant and the applicant's employees to carry on the business of pawnbroker or secondhand dealer. The Chief of Police shall then report his or her findings to the Select Board.
- B. **Location.** The license shall be issued for a specific location within the Town of Carver and is not transferable to any other person or location without the express written consent of the Select Board.
- C. **Fee.** Upon approval by the Select Board, a fee of \$50 shall be paid by the applicant to the Select Board prior to the issuance of the license.
- D. **Bond.** The licensee shall, at the time of receiving such license, file with the Select Board a bond in the sum of \$300, with two sureties approved by the Select Board, and conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed.

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1. Editor's Note: So in original; should read "in accordance with."

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- E. Display of license. Licensees shall display their current license in a conspicuous place within the business where it may be readily viewed by the general public.
- F. Expiration; revocation. A numbered license shall be issued in December and take effect on January 1 of each year and shall continue in full force for a period of one year unless revoked prior to this date by the Select Board at any time after notice to the licensee and hearing on the charges preferred.

**§ 211-5. Transaction records.**

- A. Every pawnbroker and secondhand dealer shall keep and maintain a complete written record of each transaction. This record, which must be kept on file for seven years, shall be in the English language and include a full and accurate detailed description, including serial numbers and identifying characteristics such as all markings, engravings, damage and gender specificity, of the item or items purchased, pawned or pledged; the date and time of such transaction; the clerk's name who conducted the transaction; the amount of money loaned and the rate of interest to be paid on said loans; the full name, date of birth and address of the seller or pledger; the name and address of the seller's or pledger's employer and a thumbprint of the seller, absent smudges and smears.
- B. All property purchased, pawned or pledged shall be photographed with a digital camera or digital image scanner. A color digital image shall be saved in a manner to allow it to be electronically sent to the Carver Police Department as part of the transaction record.
- C. Miscellaneous amounts of jewelry will be separated and not photographed in one aggregate pile. The image shall be sent electronically in a PDF or JPG format.
- D. Pawnbrokers and second hand dealers shall also photograph any person pawning, selling or pledging articles and keep the photographs as part of the records required pursuant to this section.

**§ 211-6. Identification of sellers required; business with person under the influence prohibited.**

- A. Every pawnbroker and secondhand dealer shall require every seller or pledger of items to produce, in person, a valid positive photographic identification issued by a United States federal or state government agency. The identification used must include the seller's or pledger's full name, date of birth, and current street address. The identification must have been issued in the past five years. The type of identification used shall be noted on the transaction records. At no time shall a pawnbroker or secondhand dealer accept another person's photographic identification for any transaction. The pawnbroker or secondhand dealer shall attach a photocopy of the identification shown to the transaction record.
- B. No pawnbroker or secondhand dealer shall transact business with anyone who appears to be under the influence of drugs or alcohol.

**§ 211-7. Holding period for purchases and pawns.**

- A. Every secondhand dealer shall retain possession of all property purchased for a twenty-one-day period subsequent to the purchase thereof; provided, however, that any such item may be disposed of by the purchaser within such thirty-day period with the written permission of the Chief of Police.
- B. Property, including jewelry, shall be maintained in the condition in which it was received, and shall not be altered, damaged, or destroyed during the holding period for any purpose. Property must be maintained at the dealer's licensed location during the holding period. Property with damaged or defaced serial numbers or identifying characteristics shall not be accepted for purchase, pledge or pawn.
- C. Pawnbrokers shall retain nonperishable items for at least four months and perishable items for at least one month after the date of deposit for said article(s). Upon expiration of the holding period, said items may be disposed of in accordance with MGL c. 140, § 71.

**§ 211-8. Reports of transactions.**

- A. Pawnbrokers and secondhand dealers shall electronically file documentation of all transaction records to the Chief of Police, within 24 hours of the end of said dealer's business day in which the transaction occurred. If during any week a pawnbroker or secondhand dealer has not purchased any items, he or she shall make a report of such fact to the Chief of Police on or before 10:00 a.m. of the first business day of the following week.
- B. The complete transaction record shall be submitted on one standard-size page. The transaction record shall include all of the information required by § 211-5 of this by-law.
- C. Every pawnbroker and secondhand dealer shall use the transaction record form prescribed by the Town of Carver.

**§ 211-9. Inspection of records and premises.**

Pawnbrokers and secondhand dealers shall retain each original transaction record in his or her possession for a period of seven years. The records, along with the respective property, shall be kept or stored in or upon the licensed premises. The licensed premises may be inspected at any time by a duly authorized police officer. MGL c. 140, § 73, provides for this inspection process and MGL c. 140, § 74, makes any willful obstruction of the police a misdemeanor punishable by a fine of not more than \$200 or by imprisonment for not more than one year or both.

**§ 211-10. Violations.**

- A. No pawnbroker or secondhand dealer shall transact business with anyone under 18 years of age.

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## PAWNBROKERS AND SECONDHAND DEALERS

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- B. No pawnbroker or secondhand dealer shall transact business at other any place than the one designated on the license.
- C. No pawnbroker or secondhand dealer shall transact business after the license expires or is revoked.
- D. No pawnbroker or secondhand dealer shall accept any property of any kind which is distinctly and plainly marked as being the property of any person other than the person offering the property unless the person offering the property shows satisfactory evidence to show that they are the legal owner or legal representative of the person identified on the markings. This evidence shall be kept with the required records of the transaction.
- E. Any pawnbroker or secondhand dealer and their employees who know or reasonably believe that property being offered if stolen, it shall be the duty of such person to report the same at once to the Carver police.
- F. All pawnbrokers and secondhand dealers shall refrain from paying cash for precious metals and articles purchased that will be liquidated, melted down or resold. The preferred method of payment should be a business check which can be traced back to the recipient.

**§ 211-11. Penalties.**

- A. The Select Board may, independently or upon recommendation from the Chief of Police, suspend or revoke said license for any violation of this by-law, or any other applicable federal, state or local law or for reasons it deems to be in the best interest of the Town, after a hearing. Notice of the suspension or revocation will be made, in writing, to the owner(s) of the business within five business days of said hearing.
- B. This by-law may be enforced by any Town of Carver police officer. Any person found violating any provision of this by-law may be penalized by a noncriminal disposition process as provided in MGL c. 40, § 21D, and the Town's noncriminal disposition by-law.<sup>2</sup> If noncriminal disposition is elected, then any person who violates any provision of this by-law shall be subject to a penalty in the amount of \$100.
- C. Any person found violating any provision of this by-law may be penalized by indictment or complaint brought in the District Court. Except as otherwise provided by law and as the District Court may see fit to impose, the maximum penalty for each violation of offense shall be \$100.
- D. The Town may enforce this by-law or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through other lawful means.
- E. Each day a violation exists shall be considered a separate offense.

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<sup>2</sup> Editor's Note: See Ch. 1, Art. II, § 1-2.

**§ 211-12. Severability.**

The provisions of this chapter shall be severable, and if any phrase, clause, sentence or provision of these regulations shall, for any reason, be held invalid or unconstitutional, the validity of the remainder of these regulations shall not be affected thereby.

## Chapter 219

### PEDDLING AND SOLICITING

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| <p>§ 219-1. License required.</p> <p>§ 219-2. Definition.</p> <p>§ 219-3. Application.</p> <p>§ 219-4. Investigation and issuance.</p> <p>§ 219-5. Duty of police officer to enforce; transfer of license prohibited.</p> <p>§ 219-6. Revocation of license.</p> | <p>§ 219-7. Expiration of license.</p> <p>§ 219-8. Renewal of license.</p> <p>§ 219-9. Misrepresentation.</p> <p>§ 219-10. Trespassing.</p> <p>§ 219-11. Violations and penalties.</p> |
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**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 6, § 6.7, of the 2015 Compilation. Amendments noted where applicable.]**

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#### § 219-1. License required.

It shall be unlawful for any solicitor or canvasser as defined in this by-law to engage in such business within the Town of Carver without first obtaining a license therefor in compliance with the provisions of this by-law. The provisions of this by-law shall not apply to any person exempted under Chapter 101 of the General Laws, or to any person duly licensed under Chapter 101 of the General Laws, or to any person exempted by any other General Law, nor shall this by-law be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls at the invitation of prospective customers to take an order for future periodic route deliveries.

#### § 219-2. Definition.

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

**SOLICITOR OR CANVASSER** — Any person who, for himself, or for another person, firm or corporation travels by foot, automobile, or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or take orders for retail sale of goods, wares, merchandise, or services, including, without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment on such retail sales.

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**§ 219-3. Application.**

- A. Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under the penalties of perjury, containing the following information:
- (1) Name of applicant;
  - (2) Address of applicant (local and permanent home address);
  - (3) Applicants' height, weight, eye and hair color;
  - (4) Applicants' social security number;
  - (5) The length of time for which the right to do business is desired;
  - (6) A brief description of the nature of the business and the goods to be sold;
  - (7) The name and home office address of the applicants' employer; if self-employed, it shall so state;
  - (8) A photograph of applicant which picture shall be submitted by the applicant and be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguished manner;
  - (9) If operating a motor vehicle, the year, make, model, motor number, registration number, state of registration, vehicle's owner and address.
- B. At the time of filing the application, each applicant shall pay a fee of \$2.
- C. If, in the opinion of the Chief of Police, an applicant is a not-for-profit community service, educational, or religious organization of good standing and reputation in the Town of Carver, the application fee shall be waived and a license to the organization may be issued and certified duplicate copies of the license issued to individuals to identify solicitors and canvassers for the organization. Such organization must designate a Carver resident person who shall be authorized to direct and control canvassers and solicitors and who shall be required to furnish required application information for the organization, with a list of all individual solicitors or canvassers, and the address of each. The Chief of Police may waive application items in Subsection A(3), (4), (7) and (8) as to the individual canvassers and solicitors for such organization who are also Town of Carver residents.

**§ 219-4. Investigation and issuance.**

- A. Upon receipt of the application, the Chief of Police shall investigate the applicant's reputation as to morals and integrity.
- B. After an investigation of the applicant's morals and integrity, but within seven business days of filing of the applicant, the Chief of Police shall endorse on such application his/her approval or disapproval. Failure of the Police Chief to act on said permit within seven business days of the applicant's filing shall constitute approval. If disapproved, the applicant shall have the right of appeal to the Select Board in writing within seven days of the denial by the Chief of Police. The Select Board must act upon the appeal at



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one of its next two regularly scheduled meetings. Failure to so act shall be deemed approval.

- C. Such license when issued shall contain the signature of the Chief of Police or the Select Board and shall show the name, address, and photograph of said licensee, the date of issuance and the length of time the same shall be operative, as well as the license number. The Police Department shall keep a record of all licenses issued for a period of six years. Solicitors and canvassers when engaged in the business of soliciting or canvassing are required to display an identifying badge issued by the Police Department, by wearing said badge on an outer garment. Each licensee is required to possess an individual license.

**§ 219-5. Duty of police officer to enforce; transfer of license prohibited.**

The police officers of the Town of Carver shall enforce this by-law. No license shall be transferred.

**§ 219-6. Revocation of license.**

The Chief of Police is hereby vested with jurisdiction over the revoking of licenses. Any person aggrieved by such revocation may appeal to the Select Board within seven business days, and a hearing will be scheduled for one of the next two regularly scheduled meetings of the Select Board.

**§ 219-7. Expiration of license.**

Each license issued under the provisions of this by-law shall continue in force from the date of its issue until the 31st day of December following, unless sooner revoked.

**§ 219-8. Renewal of license.**

A license issued under the provisions of this by-law may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information as is required to obtain an initial license.

**§ 219-9. Misrepresentation.**

- A. No solicitor or canvasser, licensed or exempted from license, may misrepresent, in any manner the buyer's right to cancel as stipulated by MGL c. 93, 93A and 255D.
- B. No solicitor or canvasser, licensed or exempted from license, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office or other establishment with the purpose of making a sale of consumer.

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**§ 219-10. Trespassing.**

It shall be unlawful for any canvasser or solicitor, whether or not exempt from licensing hereunder, to enter the premises of a resident or business who has displayed conspicuously a "no trespassing" or "no soliciting" sign or poster. Further, it shall be unlawful and cause revocation of a license for canvassers or solicitors to ignore a resident or businessperson's no solicitation directive or to remain on the premises after the owner or person in charge of the premises has indicated that the canvasser or solicitor is not welcome.

**§ 219-11. Violations and penalties.**

Any person violating any provision of this by-law shall, upon conviction thereof, be punished by a fine not to exceed \$50 for each offense.

## **Chapter 232**

### **SIGNS, POLITICAL**

**§ 232-1. Placement at polling places.**

**§ 232-3. Limitations on time of placement.**

**§ 232-2. Placement within Town boundaries.**

**§ 232-4. Return of deposit; enforcement.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 8, § 8.4, of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 232-1. Placement at polling places.**

No political or advertising signs shall be displayed on Town property, except at polling places on the day of election. Political signs placed at polling places shall comply with the following requirements:

- A. No political sign shall be placed or held inside or on the polling place building or closer than 150 feet from the entrance of the building;
- B. Political signs may be displayed at polling places on the day of the election only;
- C. Political signs may be displayed at polling places beginning one hour prior to the opening of the polls and must be removed no more than one hour after the polls close;
- D. The candidate wishing to display such signs shall comply with §§ 232-2 and 232-4 of this by-law; and
- E. Advertising signs shall not be permitted at polling places.

**§ 232-2. Placement within Town boundaries.**

Any candidate wishing to place political signs within Carver's Town boundaries shall pay a refundable deposit of \$25 to the Building Inspector prior to the placement of such signs.

**§ 232-3. Limitations on time of placement.**

No signs shall be placed sooner than 30 days prior to an election and shall be removed no later than seven days after an election, except where a primary election and a general election fall within 60 days of one another. In such a case the 30 days prior to an election shall apply to the primary election and the seven days after an election shall apply to the general election.<sup>1</sup>

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1. Editor's Note: See also Ch. 290, Zoning, § 290-3-5.6B.

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**§ 232-4. Return of deposit; enforcement.**

The deposit shall be returned to the candidate upon his/her removing their signs in compliance with the provisions of this by-law. Enforcement shall be by the Building Inspector.

## **Chapter 238**

### **SOLID WASTE**

#### **ARTICLE I**

##### **Establishment of Processing Facilities**

**§ 238-1. Preamble.**

**§ 238-2. Purpose.**

**§ 238-3. Authority.**

**§ 238-4. Proposed solid waste facilities -  
public process.**

**§ 238-5. Severability.**

**§ 238-7. Purpose.**

**§ 238-8. Authority.**

**§ 238-9. Petition.**

**§ 238-10. Burden of proof.**

**§ 238-11. Preliminary hearing.**

**§ 238-12. Hearing notice.**

**§ 238-13. Hearing procedure.**

**§ 238-14. Written decision.**

**§ 238-15. Severability.**

#### **ARTICLE II**

##### **Operation of Processing Facilities**

**§ 238-6. Preamble.**

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

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#### **ARTICLE I**

##### **Establishment of Processing Facilities**

**[Adopted as Ch. 9, § 9.3, of the 2015 Compilation]**

**§ 238-1. Preamble.**

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

**§ 238-2. Purpose.**

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

**§ 238-3. Authority.**

This article is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article 89 of the Articles of Amendment, independent of the provisions of MGL c. 111, § 150A, and regulations promulgated thereto.

**§ 238-4. Proposed solid waste facilities - public process.**

This by-law establishes procedures to require an informational meeting by the Board of Health which is held following the filing of an application for a site assignment for a proposed solid waste facility.

- A. The Board of Health shall hold a public informational meeting no later than 14 days prior to the commencement of a public hearing on a site assignment application for a proposed solid waste facility, where the applicant shall be invited to give a short presentation and answer questions from attendees.
- B. At least 14 days prior to commencement of said informational meeting, the Board of Health shall require the applicant place a large four-foot by eight-foot sign at the proposed site, on the nearest public way, which states in a clearly readable typeface that "This is a proposed site of a (type of facility) proposed by (name of applicant). An informational meeting on the application will be held (date)(time) at (location). For more information, contact (name, title, phone number and address of Board of Health contact)," and which shall contain a brief description of the proposed project and where application materials can be reviewed.
- C. At least seven days prior to commencement of said informational meeting, the Board of Health shall send notice of said meeting, which shall include a brief description of the project, the date, time and location of the meeting, how residents can participate in the meeting, and where application materials can be reviewed, by first class mail to all residents and landowners located within one mile of the proposed site, including residents and landowners in an abutting town if the proposed site is within 1/2 mile of that town (an "abutting town").
- D. At least seven days prior to commencement of the informational meeting, the Board of Health shall forward a copy of the application for site assignment to the Carver Public Library and to the public library in an abutting town, if any, and place a copy on the internet.
- E. At least seven days prior to commencement of the informational meeting, the Board of Health shall publish notice as a display advertisement in a nonlegal section of one or more newspapers of general circulation in Carver and an abutting town, if any, which shall include notice of the informational meeting and where the application materials may be reviewed, and shall send the notice as a press release to all newspapers and media outlets which circulate in the town(s).
- F. The Board of Health shall provide for either live public broadcast of the informational meeting on the local cable access channel or, if that is not feasible, for the videotaping of the informational meeting for later broadcast.
- G. The Board of Health may assess upon the applicant the costs for complying with the provisions of this section relative to the informational meeting and providing notice thereof. Said applicant may contest the amount so assessed and may request a hearing before the Board, who may then reconsider the amount of the assessment thereof.

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**§ 238-5. Severability.**

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

## ARTICLE II

**Operation of Processing Facilities****[Adopted as Ch. 9, § 9.4, of the 2015 Compilation]****§ 238-6. Preamble.**

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

**§ 238-7. Purpose.**

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

**§ 238-8. Authority.**

This article is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article 89 of the Articles of Amendment, independent of the provisions of MGL c. 111, § 150A, and regulations promulgated thereto.

**§ 238-9. Petition.**

Any 10 or more residents of Carver may petition the Board of Health in writing alleging that said solid waste facility is operating in violation of its site assignment or of any applicable law, regulation, order, or by-law or that the maintenance or operation of a solid waste facility results or may result in a threat to public health or safety or the environment.

**§ 238-10. Burden of proof.**

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

**§ 238-11. Preliminary hearing.**

No later than 21 days following receipt of such a petition, the Board of Health shall schedule a preliminary hearing. The purpose of the preliminary hearing shall be to decide whether the Board should schedule a site assignment hearing pursuant to MGL c. 111, § 150A, to consider whether to rescind, suspend, or modify the site assignment of said facility. The preliminary hearing shall be held no later than 60 days following receipt of the petition.

**§ 238-12. Hearing notice.**

Notice of the preliminary hearing shall be made at least 21 days prior to the commencement of the hearing by notice printed in a display advertisement in every newspaper of general circulation in Carver and an abutting town, if any. Said notice shall include the entire text or a concise summary of the petition, the date, time, and place of the preliminary hearing, how residents can participate in the meeting, and where application materials can be reviewed and the deadline for submitting written comments on the petition to the Board of Health. At least 14 days prior to commencement of said preliminary hearing, the Board of Health shall send a copy of said notice of said preliminary hearing by first class mail to all residents and landowners located within one mile of the proposed site, including residents of an abutting town, if any.

**§ 238-13. Hearing procedure.**

- A. The preliminary hearing shall be conducted as follows:
- (1) The petitioners shall first describe the basis for their petition.
  - (2) Then, the owner or operator of the affected facility shall be given a reasonable opportunity to respond.
  - (3) The Board shall then allow public testimony, and shall accept written comments for a specific period of time that shall be announced at the preliminary hearing.
- B. The hearing shall be conducted as informally as possible, and shall not follow the rules of evidence commonly followed in the courts. Any resident of Carver or an abutting town, if any, and of the general public, shall be allowed to present oral or written testimony during the hearing.

**§ 238-14. Written decision.**

No later than 30 days following the conclusion of the preliminary hearing, the Board shall render a written decision whether or not to convene a site assignment hearing pursuant to MGL c. 111, § 150A, to consider whether the site assignment should be rescinded, suspended, or modified.



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**§ 238-15. Severability.**

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



## **Chapter 243**

### **STORM SEWERS**

#### **ARTICLE I**

##### **Illicit Connections and Discharges**

**§ 243-1. Purpose.**

**§ 243-2. Definitions.**

**§ 243-3. Applicability.**

**§ 243-4. Responsibility for  
administration.**

**§ 243-5. Regulations.**

**§ 243-6. Prohibited activities.**

**§ 243-7. Emergency suspension of storm  
drainage system access.**

**§ 243-8. Notification of spills.**

**§ 243-9. Enforcement.**

**§ 243-10. Severability.**

**§ 243-11. Transitional provisions.**

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

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#### **ARTICLE I**

##### **Illicit Connections and Discharges**

**[Adopted as Ch. 9, § 9.7, of the 2015 Compilation]**

**§ 243-1. Purpose.**

- A. Increased and contaminated stormwater run-off are major causes of:
  - (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
  - (2) Contamination of drinking water supplies;
  - (3) Alteration or destruction of aquatic and wildlife habitat; and
  - (4) Flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of Carver's water bodies and groundwater, and to safeguard the public health, safety, welfare, and the environment.
- C. The objectives of this by-law are:
  - (1) To prevent pollutants from entering Carver's municipal separate storm sewer system or municipal storm drain system (MS4);
  - (2) To prohibit illicit connections and unauthorized discharges to the MS4;
  - (3) To require the removal of all such illicit connections;
  - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and

- (5) To establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

## **§ 243-2. Definitions.**

For the purposes of this by-law, the following shall mean:

**AUTHORIZED ENFORCEMENT AGENCY** — The Department of Public Works, its employees, or agents designated to enforce this by-law.

**BEST MANAGEMENT PRACTICES (BMPS)** — Activities, prohibitions of practices, general good housekeeping practices, structural and nonstructural controls, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge, or waste disposal, or drainage from raw materials storage.

**CLEAN WATER ACT** — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), as hereafter amended.

**DISCHARGE OF POLLUTANTS** — The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or commonwealth from any source.

**GROUNDWATER** — All water beneath the surface of the ground.

**ILLEGAL DISCHARGE** — Any direct or indirect nonstormwater discharge to the municipal storm drain system, except as specifically exempted in § 243-6D of this by-law. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from firefighting activities exempted pursuant to § 243-6D of this by-law.

**ILLICIT CONNECTION** — Any surface or subsurface drain or conveyance that allows an illegal discharge into the municipal storm drain system. Illicit connections include conveyances that allow a nonstormwater discharge to the municipal storm drain system including sewage, process wastewater or wash water, and any connections from indoor drains sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

**IMPERVIOUS SURFACE** — Any material or structure on or above the ground that prevents water from infiltrating the underlying soil.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OR MUNICIPAL STORM DRAIN SYSTEM** — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Carver.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT** — A permit issued by United States Environmental

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Protection Agency or jointly with the state that authorizes the discharge of pollutants to waters of the United States.

**NONSTORMWATER DISCHARGE** — Any discharge to the municipal storm drain system not composed entirely of stormwater.

**PERSON** — Any individual, partnership, association, firm, company, trust, corporation; and any agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law; and any officer, employee, or agent of such person.

**POLLUTANT** — Any element or property of sewage, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the commonwealth. Pollutants shall include:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations, and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform, and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock; sand; salt, soils;
- J. Construction wastes and residues;
- K. And noxious or offensive matter of any kind.

**PROCESS WASTEWATER** — Any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

**RECHARGE** — The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**STORMWATER** — Runoff from precipitation or snow melt.

**TOXIC OR HAZARDOUS MATERIAL OR WASTE** — Any material that, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious, or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive, or infectious waste, acid, and alkali, and any substance

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defined as toxic or hazardous under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

**WASTEWATER** — Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that, during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

**WATERCOURSES** — A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

**WATERS OF THE COMMONWEALTH** — All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

### **§ 243-3. Applicability.**

This by-law shall apply to flows entering the municipally owned storm drainage system.

### **§ 243-4. Responsibility for administration.**

The Department of Public Works shall administer, implement, and enforce this by-law. Any powers granted to or duties imposed upon the Department of Public Works may be delegated in writing by the Superintendent of Public Works to employees or agents of the Department of Public Works.

### **§ 243-5. Regulations.**

The Department of Public Works may promulgate rules and regulations to effectuate the purposes of this by-law. Failure by the Department of Public Works to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

### **§ 243-6. Prohibited activities.**

- A. **Illegal discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or nonstormwater discharge into the municipal storm drain system, watercourse, or into the waters of the commonwealth.
- B. **Illicit connections.** No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
- C. **Obstruction of municipal storm drain system.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior approval from the Department of Public Works.
- D. **Exemptions.** This section shall not apply to discharges or flows resulting from firefighting activities, nor to any of the following nonstormwater discharges or flows,

provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- (1) Water line flushing;
- (2) Flows from potable water sources;
- (3) Springs;
- (4) Natural flows from riparian habitats and wetlands;
- (5) Diverted stream flows;
- (6) Rising groundwaters;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20),<sup>1</sup> or uncontaminated pumped groundwater;
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
- (9) Discharges from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;
- (11) Discharges from dechlorinated swimming pool water (less than one ppm chlorine), provided it is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (12) Discharges from street sweeping;
- (13) Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test;
- (14) Nonstormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (15) Discharges for which advanced written approval is received from the Department of Public Works if necessary to protect public health, safety, welfare, or the environment.

**§ 243-7. Emergency suspension of storm drainage system access.**

The Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened illegal discharge that presents or may present imminent risk of harm to the public health, safety, welfare, or the environment. In the event any person fails to comply

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1. Editor's Note: See 40 CFR 35.2005(b)(20).

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with an emergency suspension order, the authorized enforcement agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare, or the environment.

#### **§ 243-8. Notification of spills.**

Notwithstanding any other requirements of local, state, or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials at that facility or operation that is resulting or may result in illegal discharge of pollutants, that person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Fire Department, the Police Department, the Department of Public Works, and the Conservation Commission. In the event of a release of nonhazardous material, said person shall notify the authorized enforcement agency no later than the next business day. Written confirmation of all telephone, facsimile, email, or in-person notifications shall be provided to the authorized enforcement agency within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

#### **§ 243-9. Enforcement.**

- A. The Department of Public Works, or an authorized agent of the Department of Public Works (as designated by the Superintendent of Public Works) shall enforce this by-law, and the regulations promulgated thereunder, as well as the terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil relief. If anyone violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Department of Public Works may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities that would create further violations or compelling the person to abate or remediate the violation.
- C. Orders. The Department of Public Works may issue a written order to enforce the provisions of this by-law or the regulations thereunder, that may include: (a) elimination of illicit connections or discharges to the storm drainage system; (b) termination of access to the storm drainage system; (c) performance of monitoring, analyses, and reporting; (d) cessation of unlawful discharges, practices, or operations; and (e) remediation of contamination in connection therewith. If the Department of Public Works determines that abatement or remediation of contamination is required, the order shall set forth a deadline for completion of the abatement or remediation.
- D. Criminal and civil penalties. Any person who violates any provision of this by-law, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed \$300 for each day such violation occurs or continues or subject to a civil penalty not to exceed \$300 for each day such violation occurs or continues, which may be assessed in an action brought on behalf of the Town of Carver in any court of competent jurisdiction.



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- E. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Carver may elect to use the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter 1, Article II, of the Town of Carver By-Laws, in which case the Department of Public Works or its Superintendent of Public Works or other authorized agent of the Town of Carver shall be the enforcing person. The penalty for the first violation shall be \$50. The penalty for the second violation shall be \$150. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- F. Entry to perform duties under this by-law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Department of Public Works, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys, or sampling as the Department of Public Works deems reasonably necessary.
- G. Appeals. The decisions or orders of the Department of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.
- H. Remedies not exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

**§ 243-10. Severability.**

If any provision, paragraph, sentence, or clause of this by-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.

**§ 243-11. Transitional provisions.**

Residential property owners shall have 60 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.



## Chapter 247

### STORMWATER MANAGEMENT

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| <p>§ 247-1. Purpose.</p> <p>§ 247-2. Definitions.</p> <p>§ 247-3. Authority.</p> <p>§ 247-4. Applicability.</p> <p>§ 247-5. Responsibility for administration.</p> <p>§ 247-6. Permits and procedure.</p> | <p>§ 247-7. Erosion and sediment control plan.</p> <p>§ 247-8. Inspection and site supervision.</p> <p>§ 247-9. Surety.</p> <p>§ 247-10. Final reports.</p> <p>§ 247-11. Enforcement.</p> <p>§ 247-12. Certificate of completion.</p> <p>§ 247-13. Severability.</p> |
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**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 9, § 9.6, of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 247-1. Purpose.**

- A. The harmful impacts of soil erosion and sedimentation are:
- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
  - (2) Contamination of drinking water supplies;
  - (3) Alteration or destruction of aquatic and wildlife habitat;
  - (4) Flooding; and
  - (5) Overloading or clogging of municipal catch basins and storm drainage systems.
- B. The objectives of this by-law are to:
- (1) Protect water resources;
  - (2) Require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land-disturbance activities;
  - (3) Promote infiltration and the recharge of groundwater;
  - (4) Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
  - (5) Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

- (6) Comply with state and federal statutes and regulations relating to stormwater discharges; and
- (7) Establish the Town's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

### **§ 247-2. Definitions.**

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

**ABUTTER** — The owner(s) of land abutting the activity.

**AGRICULTURE** — The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act<sup>1</sup> and its implementing regulations.

**APPLICANT** — Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the commonwealth or the federal government to the extent permitted by law requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

**AUTHORIZED ENFORCEMENT AGENCY** — The Planning Board, hereafter the Board, its employees or agents designated to enforce this by-law.

**CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC)** — A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

**CLEARING** — Any activity that removes the vegetative surface cover.

**CONSTRUCTION AND WASTE MATERIALS** — Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

**EROSION** — The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**EROSION AND SEDIMENTATION CONTROL PLAN** — A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a certified professional in erosion and sedimentation control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during preconstruction and construction-related land-disturbance activities.

**ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS** — Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

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1. Editor's Note: See MGL c. 131, §§ 40 and 40A.

**LAND-DISTURBING ACTIVITY** — Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

**MASSACHUSETTS ENDANGERED SPECIES ACT** — MGL c. 131A and its implementing regulations at 321 CMR 10.00, which prohibit the "taking" of any rare plant or animal species listed as endangered, threatened, or of special concern.

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

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM** — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Carver.

**OWNER** — A person with a legal or equitable interest in property.

**PERSON** — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**PRECONSTRUCTION** — All activity in preparation for construction.

**PRIORITY HABITAT OF RARE SPECIES** — Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

**RUNOFF** — Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT** — Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION** — The process or act of deposition of sediment.

**SITE** — Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

**SLOPE** — The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

**SOIL** — Any earth, sand, rock, gravel, or similar material.

**STABILIZATION** — The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

**STORMWATER** — Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

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**STRIP** — Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

**VERNAL POOLS** — Temporary bodies of fresh water which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

**WATERCOURSE** — A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

**WETLAND RESOURCE AREA** — Areas specified in the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and in Chapter 281, Wetlands, of the Town of Carver's by-laws.

**WETLANDS** — Tidal and nontidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps and bogs.

### **§ 247-3. Authority.**

This by-law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

### **§ 247-4. Applicability.**

This by-law shall apply to all activities that result in disturbance of one or more acres of land that drains to the municipal separate storm sewer system. Except as authorized by the Planning Board in a land disturbance permit or as otherwise provided in this by-law, no person shall perform any activity that results in disturbance of an acre or more of land. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act Regulation 310 CMR 10.04, are exempt. In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the above activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an order of conditions issued by the Conservation Commission are exempt from compliance with this by-law.

### **§ 247-5. Responsibility for administration.**

- A. The Carver Planning Board shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Carver Planning Board may be delegated in writing by Carver Planning Board to its employees or agents.
- B. Waiver. The Carver Planning Board may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where:
  - (1) Such action is allowed by federal, state and local statutes and/or regulations;
  - (2) Is in the public interest; and

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- (3) Is not inconsistent with the purpose and intent of this by-law.
- C. Rules and regulations. The Carver Planning Board may adopt, and periodically amend, rules and regulations to effectuate the purposes of this by-law. Failure by Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

**§ 247-6. Permits and procedure.**

- A. Application. A completed application for a land disturbance permit shall be filed with the Carver Planning Board. A permit must be obtained prior to the commencement of land-disturbing activity that may result in the disturbance of an area of one acre or more. The land disturbance permit application package shall include:
  - (1) A completed application form with original signatures of all owners;
  - (2) A list of abutters, certified by the Assessors' Office;
  - (3) Twelve copies of the erosion and sediment control plan as specified in § 247-7 of this by-law;
  - (4) Payment of the application and review fees; and
  - (5) One copy each of the application form and the list of abutters filed with the Town Clerk.
- B. Entry. Filing an application for a permit grants Planning Board or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- C. Other boards. The Planning Board shall notify the Town Clerk of receipt of the application, and shall give one copy of the application package to the Board of Health, Board of Public Works, Town Engineer, Conservation Commission and Building Commissioner.
- D. Public hearing. The Planning Board shall hold a public hearing within 21 days of the receipt of a complete application and shall take final action within 21 days from the time of the close of the hearing unless such time is extended by agreement between the applicant and Planning Board. Notice of the public hearing shall be given by publication and posting and by first class mailings to abutters at least seven days prior to the hearing. The Town Clerk shall make the application available for inspection by the public during business hours at the Carver Town Hall, 108 Main Street, Carver MA 02330.
- E. Information requests. The applicant shall submit all additional information requested by the Planning Board to issue a decision on the application.
- F. Action by Carver Planning Board. The Planning Board may:
  - (1) Approve the land disturbance permit application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this by-law;

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- (2) Approve the land disturbance permit application and issue a permit with conditions, modifications or restrictions that the Planning Board determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this by-law;
  - (3) Disapprove the land disturbance permit application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this by-law.
- G. Failure of the Planning Board to take final action upon an application within the time specified above shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without the Planning Board's action, the land disturbance permit shall be issued by the Planning Board.
- H. Fee structure. Each application must be accompanied by the appropriate application fee as established by the Planning Board. Applicants shall pay review fees as determined by Planning Board sufficient to cover any expenses connected with the public hearing and review of the land disturbance permit application before the review process commences. The Planning Board is authorized to retain a registered professional engineer or other professional consultant to advise the Planning Board on any or all aspects of the application.
- I. Project changes. The permittee, or their agent, must notify the Planning Board in writing of any change or alteration of a land-disturbing activity authorized in a land disturbance permit before any change or alteration occurs. If the Planning Board determines that the change or alteration is significant, based on the design requirements listed in § 247-7B and accepted construction practices, the Planning Board may require that an amended land disturbance permit application be filed and a public hearing held. If any change or alteration from the land disturbance permit occurs during any land-disturbing activities, the Planning Board may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

#### **§ 247-7. Erosion and sediment control plan.**

- A. The erosion and sediment control plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements listed in Subsection B below.
- B. The design requirements of the erosion and sediment control plan are:
  - (1) Minimize total area of disturbance;
  - (2) Sequence activities to minimize simultaneous areas of disturbance;
  - (3) Minimize peak rate of runoff in accordance with the Massachusetts Stormwater Policy;
  - (4) Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;



- (5) Divert uncontaminated water around disturbed areas;
  - (6) Maximize groundwater recharge;
  - (7) Install and maintain all erosion and sediment control measures in accordance with the manufacturers' specifications and good engineering practices;
  - (8) Prevent off-site transport of sediment;
  - (9) Protect and manage on- and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);
  - (10) Comply with applicable federal, state and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
  - (11) Prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife and certified vernal pools, and priority habitats of rare species from the proposed activities;
  - (12) Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site;
  - (13) Properly manage on-site construction and waste materials; and
  - (14) Prevent off-site vehicle tracking of sediments.
- C. Erosion and sedimentation control plan content. The plan shall contain the following information:
- (1) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
  - (2) Title, date, North arrow, names of abutters, scale, legend, and locus map;
  - (3) Location and description of natural features, including:
    - (a) Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year-flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps;
    - (b) Existing vegetation, including tree lines, canopy layer, shrub layer, and ground cover, and trees with a caliper 12 inches or larger, noting specimen trees and forest communities; and
    - (c) Habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife and certified vernal pools, and priority habitats of rare species within 500 feet of any construction activity.

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- (4) Lines of existing abutting streets showing drainage and driveway locations and curb cuts;
- (5) Existing soils, volume and nature of imported soil materials;
- (6) Topographical features, including existing and proposed contours at intervals no greater than two feet, with spot elevations provided when needed;
- (7) Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed;
- (8) Drainage patterns and approximate slopes anticipated after major grading activities (construction phase grading plans);
- (9) Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and nonstructural measures, interim grading, and material stockpiling areas;
- (10) Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;
- (11) Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;
- (12) Stormwater runoff calculations in accordance with the Department of Environmental Protection's Stormwater Management Policy;
- (13) Location and description of an implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;
- (14) A description of construction and waste materials expected to be stored on-site. The plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
- (15) A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed;
- (16) Plans must be stamped and certified by a qualified professional engineer registered in Massachusetts or a certified professional in erosion and sediment control; and
- (17) Such other information as is required by the Planning Board.

**§ 247-8. Inspection and site supervision.**

- A. Preconstruction meeting: Prior to starting clearing, excavation, construction, or land-disturbing activity the applicant, the applicant's technical representative, the general

contractor or any other person with authority to make changes to the project shall meet with the Planning Board to review the permitted plans and their implementation.

- B. Board inspection: The Planning Board or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the land disturbance permit as approved. The permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of the Planning Board, shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Planning Board at least two working days before each of the following events:
- (1) Erosion and sediment control measures are in place and stabilized;
  - (2) Site clearing has been substantially completed;
  - (3) Rough grading has been substantially completed;
  - (4) Final grading has been substantially completed;
  - (5) Close of the construction season; and
  - (6) Final landscaping (permanent stabilization) and project final completion.
- C. Permittee inspections: The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Planning Board or designated agent in a format approved by the Planning Board.
- D. Access permission: To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys or sampling as the Planning Board deems reasonably necessary to determine compliance with the permit.

#### **§ 247-9. Surety.**

The Planning Board may require the permittee to post before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Planning Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Board has received the final report as required by § 247-10 and issued a certificate of completion.

**§ 247-10. Final reports.**

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a professional engineer (PE), surveyor, or certified professional in erosion and sediment control (CPESC), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

**§ 247-11. Enforcement.**

- A. The Planning Board or an authorized agent of the Board shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Orders. The Planning Board or an authorized agent of the Planning Board may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:
  - (1) A requirement to cease and desist from the land-disturbing activity until there is compliance with the by-law and provisions of the land disturbance permit;
  - (2) Maintenance, installation or performance of additional erosion and sediment control measures;
  - (3) Monitoring, analyses, and reporting;
  - (4) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.
- C. Criminal penalty. Any person who violates any provision of this by-law, regulation, order or permit issued there under, shall be punished by a fine of not more than \$100; each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter 1, Article II, of the Town of Carver By-laws, in which case Zoning Enforcement Officer of the Town shall be the enforcing person. The penalty for the first violation shall be \$100. The penalty for the second violation shall be \$200. The penalty for the third and subsequent violations shall be \$3,000. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Appeals. The decisions or orders of the Planning Board shall be final. Further relief shall be to a court of competent jurisdiction.
- F. Remedies not exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

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**§ 247-12. Certificate of completion.**

The issuing authority will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this by-law.

**§ 247-13. Severability.**

If any provision, paragraph, sentence, or clause of this by-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.



## Chapter 252

### STREETS AND SIDEWALKS

**§ 252-1. Temporary repairs to private roads.**

**§ 252-3. Street acceptances.**

**§ 252-2. Repair of private ways.**

**§ 252-4. Curb cut permits.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 7 of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 252-1. Temporary repairs to private roads.**

The Town may make such temporary repairs on such private roads within the Town as the Select Board and Department of Public Works shall jointly deem necessary, provided, however, that:

- A. Such repairs shall be only to the extent required as determined by the DPW;
- B. Drainage may be included when deemed necessary by the DPW;
- C. Such repairs shall be made only when required by public necessity as determined by the Select Board and DPW jointly;
- D. No repairs shall be made unless at least 60% of the abutters to the way shall petition in writing the Select Board or the DPW;
- E. No betterment charges shall be assessed unless authorized by vote of an Annual Town Meeting;
- F. The Town shall not be liable on account of damages caused by such repairs;
- G. No repairs shall be made to any private way unless the way shall have been opened to public use for six years prior to the date of petition for repair, unless the Select Board and DPW determine that the public safety requires such repairs; and
- H. No cash deposit shall be required for said repairs.

**§ 252-2. Repair of private ways.**

Pursuant to MGL c. 40, § 6N, the Town shall make repairs to private ways in the Town of Carver only if all the following requirements are first met:

- A. The repair to the road surface shall consist only of grading and leveling and patching with bituminous concrete, recovered asphalt paving, or processed gravel.
- B. The repair may include drainage improvements.
- C. No repair or drainage improvement shall be made until the Board of Public Works Commissioners has first voted as to declare the particular repair a public necessity;

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provided, however, that no betterment or cash deposit shall be assessed or required for a repair so declared, and there shall be no requirement of petition for abutters to the particular private way to be repaired.

- D. No repair shall be made of any land except with express written permission from the owner thereof, unless such owner is not determinable on the records of the Assessors, and the Town shall not be liable for damages caused by such repair.
- E. No private way shall be repaired unless said way has expressly refused to accept shall accept be eligible for repair hereunder.
- F. The Town shall have no duty to repair a private way and such repairs shall be subject to the appropriation of funds therefor by Town Meeting.

### **§ 252-3. Street acceptances.**

[pursuant to MGL c. 40, § 21(1)]

- A. No private street shall be accepted by the Town as a public way unless all of the following conditions have been met:
  - (1) The way shall have a minimum pavement width of not less than 24 feet for its entire length;
  - (2) The way shall be shown on a definitive plan endorsed by the Planning Board, and shall be actually constructed in accordance with the specifications of the definitive plan approval; and
  - (3) The way shall have been completed in accordance with said definitive plan for a period of at least 12 months, in order to ensure that the way may withstand severe winter weather.
- B. Notwithstanding the above, the Town Meeting may accept as a public way a way that does not meet all of the conditions set forth above, upon recommendation, by a majority vote, from the Planning Board to waive such condition(s).

### **§ 252-4. Curb cut permits.**

[pursuant to MGL c. 40, § 21(1)]

No driveway shall be constructed in such a way as to interfere with the normal flow of traffic or the drainage on any public way. In the event that said driveway has been so constructed that there exists an unsafe condition or a condition which, if not corrected, might cause or permit damage to the pavement or the drainage system of the public road, the Select Board shall give written notice to the owner of the property, stating a reasonable time within which said defect shall be corrected. In the event that the owner does not comply with said notice, the Town may take reasonable steps to correct the defect at the expense of the owner.



## Chapter 260

### TAXATION

#### ARTICLE I Tax Title Payment Plans

#### § 260-2. Payment agreements.

##### § 260-1. Authority; applicability.

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

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#### ARTICLE I Tax Title Payment Plans [Adopted as Ch. 10, § 10.5, of the 2015 Compilation]

##### § 260-1. Authority; applicability.

The Treasurer shall have the authority to enter into written installment payment agreements with persons entitled to redeem parcels in tax title in accordance with MGL c. 60, § 62A. This by-law shall apply only to owner-occupied residential properties within the Town of Carver with tax title accounts in excess of \$5,000 and which have an assessed value of \$200,000 or greater and have been in tax title for more than three years.

##### § 260-2. Payment agreements.

All installment payment agreements shall comply with the following minimum requirements:

- A. The installment payment agreement shall have a maximum term of five years.
- B. The installment payment agreement may include a waiver of up to 50% of the interest that has accrued in the tax title account, but only if the taxpayer complies with the terms of the agreement (no taxes or collection costs may be waived).
- C. The installment payment agreement must state the full amount owed by the taxpayer at the time of execution of the agreement. This amount shall not include any waivers of interest, but shall be the full amount owed to the Town by the taxpayer before such waivers are applied.
- D. The taxpayer must pay at least 25% of the amount set forth in Subsection C above at the time of execution of the agreement.
- E. The installment payment agreement must be in writing and signed by the taxpayer and the Treasurer.
- F. The installment payment agreement must include the amount due upon the execution of the payment agreement and a schedule of all remaining payments to be made by the taxpayer throughout the term of the installment payment agreement.



## **Chapter 269**

### **VEHICLES, JUNK**

**§ 269-1. Outdoor storage restrictions.**

**§ 269-3. Exceptions.**

**§ 269-2. Definitions.**

**§ 269-4. Enforcement.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 8, § 8.2, of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 269-1. Outdoor storage restrictions.**

No person shall permit a junk vehicle, or any major part thereof, to stand in the open on premises within the Town, which are not licensed under MGL c. 140, § 57, for a period of more than 30 days.

**§ 269-2. Definitions.**

For the purposes of enforcing this by-law, a junk vehicle shall be defined as:

- A. Any vehicle or major part thereof, which is inoperable or unfit for vehicular use; or
- B. Any unregistered vehicle in excess of one.

**§ 269-3. Exceptions.**

Subsection B of the definition of junk vehicle<sup>1</sup> shall not be used to prohibit the storage of recreational vehicles such as campers, trailers, skimobiles, nor shall it be applied to any other operable vehicle that its legal use does not require registration.

**§ 269-4. Enforcement.**

Enforcement of this by-law shall be by the Select Board or its appointed representative.

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**1. Editor's Note: See § 269-2B.**



## Chapter 276

### WATER

#### ARTICLE I Private Water Supply Systems

§ 276-1. Purpose.

§ 276-2. Definitions.

§ 276-3. Applicability.

§ 276-4. Water Supply Advisory Committee.

§ 276-5. Private water supply permit.

§ 276-6. Procedure.

§ 276-7. Violations and penalties.

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

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#### ARTICLE I Private Water Supply Systems [Adopted as Ch. 11 of the 2015 Compilation]

§ 276-1. Purpose.

The purpose of this by-law is to provide a mechanism for the Town of Carver to manage the supply of water to its inhabitants and to ensure that the citizens of Carver have an adequate volume and quality of water, now and in the future.

§ 276-2. Definitions.

When used in this by-law, the following terms shall have the following meanings:

**AQUIFER** — The Plymouth/Carver Aquifer as designated by the United States Environmental Protection Agency, Sole Source Aquifer Designation for the Plymouth-Carver Aquifer, Massachusetts (55 FR 32137), August 7, 1990.

**PERSON** — Every natural person, partnership, association or corporation, excluding the Town of Carver and the North Carver Water District and excluding a landlord supplying water to its tenant, a condominium association supplying water to its members, cranberry growers, and co-ops.

**PRIVATE WATER SUPPLY SYSTEM** — Any operation or undertaking by any person engaged in the sale of water to another through pipes or mains.

**WATERWORKS** — Includes dams, wells, reservoirs, pumping and filtration plants, buildings, standpipes, tanks, fixtures and other structures, including purification works, aqueducts, conduits, pipes and other works necessary for the conveyance of water.

**§ 276-3. Applicability.**

This by-law shall apply to any private water supply system with a whole or part of its waterworks within the Town of Carver, but shall exclude the Town of Carver and the North Carver Water District and excluding a landlord supplying water to his tenant, a condominium association supplying water to its members, cranberry growers, and co-ops.

**§ 276-4. Water Supply Advisory Committee.**

- A. There shall be established a Water Supply Advisory Committee consisting of seven members, each of whom shall be a resident of the Town of Carver.
- B. Members of the Committee shall be appointed as follows: two by the Select Board, one by the Industrial Development Committee, one by the North Carver Water District Commission, one by the Board of Health, one by the Conservation Commission, and one by the Planning Board.
- C. Members of the Committee shall serve for a term of three years.
- D. The Committee shall review all applications for private water supply permits submitted to the Select Board and shall issue written reports and recommendations thereon, as set forth in § 276-6 of this by-law.
- E. The Committee shall study and report to the Select Board and other Town boards and officers on all matters involving the use of water in the Town, including but not limited to proposed intermunicipal agreements and the establishment of public water supplies.

**§ 276-5. Private water supply permit.**

No person shall operate a private water supply system, or any portion thereof, within the Town of Carver without first receiving a permit from the Select Board in accordance with the procedure set forth in § 276-6 of this by-law. The Select Board shall not issue any such permit unless the applicant proves that issuance of the permit will not adversely affect the aquifer or the Town's ability to serve its inhabitants with water, now or in the future.

**§ 276-6. Procedure.**

Private water supply system permits shall be issued in accordance with the following procedure.

- A. Application.
  - (1) Applications for private water supply permits shall be in writing on a form prescribed by the Select Board. Within 90 days of the effective date of this by-law, the Water Supply Advisory Committee shall submit to the Select Board a proposed application form. At a minimum, said application form shall require the applicant to furnish sufficient information for the Board to make the determination required by § 276-5 of this by-law.

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- (2) All applications for private water supply system permits shall be accompanied by a fee established by the Select Board.

B. Review fees.

- (1) Upon receipt of a completed application, the Select Board shall, by majority vote, require that the applicant pay a reasonable "review fee" of a sufficient sum to enable the Board to retain consultants chosen by the Board alone. The Board may require that the property owner and/or occupant deposit a lump sum in order to retain consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits.
- (2) The Select Board shall adopt a review fee regulation for administration of this section.

C. Review by the Water Supply Advisory Committee.

- (1) Within 30 days of receipt of a completed application, the Select Board shall forward a copy of the application to the Water Supply Advisory Committee.
- (2) The Water Supply Advisory Committee shall review the application and provide a written report and recommendation to the Select Board.
- (3) The Water Supply Advisory Committee may consult with such other Town officers, boards or committees or third parties, including but not limited to the Plymouth/Carver Aquifer Advisory Committee, as it deems appropriate. After completion of its review, the Committee may recommend that the permit be denied, that the permit be granted, that the permit be granted with conditions, or that the applicant be asked to provide additional information prior to the public hearing.
- (4) The Water Supply Advisory Committee shall submit its written report and recommendation to the Select Board within sixty days of its receipt of the application.

D. Public hearing.

- (1) The Select Board shall convene a public hearing within 30 days of receipt of the Water Supply Advisory Committee's report and recommendation.
- (2) The Select Board shall provide at least 14 days' written notice of the hearing to the applicant, the North Carver Water District, and all abutters to the proposed project. Notice of the hearing shall be published at least once in a newspaper of general circulation in the Town, at least seven days prior to the date of the hearing.
- (3) At the hearing, the applicant shall present sufficient evidence for the Board to determine that the proposed private water supply will not adversely affect the aquifer or the Town's ability to serve its inhabitants with water.
- (4) After considering all evidence and input it deems appropriate, the Chair shall entertain a motion to close the hearing.

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- (5) Within 60 days of the close of the hearing, the Select Board shall issue a decision in writing supported by written findings of fact. The Board may rule that the permit be denied, that the permit be granted, or that the permit be granted with conditions. One such condition shall include a requirement that all infrastructure and rights to access and control of the private water supply system shall be conveyed to the Town upon creation of a public water supply system for any part of Town abutting or near the area served by the private water supply system.
- (6) If the Board does not issue a written decision within said sixty-day period, the application shall be deemed denied on the 61st day.

**§ 276-7. Violations and penalties.**

Any person who operates a private water supply system without a permit from the Select Board may be punished of a fine of up to \$300 for each offense, and each day a private water supply system is operated without a permit shall constitute a separate offense.



## Chapter 281

### WETLANDS

**§ 281-1. General provisions.**

**§ 281-2. Filing procedures.**

**§ 281-3. Plans.**

**§ 281-4. Enforcement; violations and penalties; security.**

**§ 281-5. Definitions.**

**§ 281-6. Severability.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Ch. 9, § 9.2, of the 2015 Compilation. Amendments noted where applicable.]**

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**§ 281-1. General provisions.**

A. Introduction. These regulations are promulgated by the Carver Conservation Commission pursuant to the authority granted to the Commission under MGL c. 40, § 8C.

B. Purpose.

(1) The purpose of this by-law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Carver by controlling activities deemed by the Carver Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following:

- (a) Public or private water supply;
- (b) Groundwater and groundwater quality;
- (c) Surface water and surface water quality;
- (d) Flood control;
- (e) Erosion and sedimentation control;
- (f) Prevention of water pollution;
- (g) Storm drainage;
- (h) Fisheries;
- (i) Wildlife habitat;
- (j) Recreation;
- (k) Agriculture;
- (l) Aesthetics;
- (m) Fish/shellfish habitat;
- (n) Rare plant and animal species;

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- (o) Riverfront areas;
  - (p) Prevention of invasive species (as specified in the Annotated Species List for Massachusetts prepared by the Massachusetts Invasive Plant Advisory Group, which may be amended from time to time). **[Added 4-11-2023 ATM by Art. 17]**
- (2) In addition, the Commission shall provide clear guidance to applicants regarding the policies that the Commission has determined are necessary to protect wetland resource areas based upon Carver's particular topography and hydrology, by the unique and special value these resource areas have to the Carver residential and agricultural community, and the significant past experience of the Commission with wetlands protection.

C. Statement of jurisdiction.

- (1) Except as permitted by the Commission as provided by this by-law, no person shall remove, fill, dredge, alter or build upon or within 100 feet of: any bank, wetland, marsh, swamp, bog, beach, or wet meadow, pond or lake; any land under said waters; any land subject to flooding or inundation by groundwater or surface water; or the 100-year floodplain.
- (2) Except as permitted by the Commission as provided by this by-law, no person shall remove, fill, dredge, alter, or build upon or within 200 feet on each side of perennial rivers and streams.
- (3) Except as permitted by the Commission through the issuance of a variance as defined in § 281-5 of this by-law and the issuance of a permit/order of conditions, no person shall build or enlarge any structure, parking lot or impervious surface, remove, fill, dredge, alter, build upon, disturb or make any changes to the natural characteristics of the landscape, by human activity, upon or within 65 feet of: any wetland, marsh, meadow, bog or swamp; any bank; any lands bordering on any lake, river, pond, stream or creek; or any land under said waters; or any land subject to flooding or inundation by groundwater or surface water. **[Amended 4-11-2023 ATM by Art. 18]**
- (4) Except as permitted by the Commission through the issuance of a variance as defined by § 281-5 of this by-law and the issuance of a permit as defined by § 281-2 of this by-law, no person shall build any residential dwelling within 100 feet of a cranberry bog.

D. Exceptions: public utilities and emergency repairs.

- (1) The permit and application required under this by-law shall not be required for maintaining, repairing or replacing an existing and lawfully place structure or facility used in the service of the public to provide electric, gas, water, sanitary sewer, storm drainage, public roadway, telephone, telegraph, or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged.

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- (2) Written notice must be given to the Commission at least 14 days prior to the commencement of such work and written permission must be granted by the Commission before any work begins.
- (3) The permit application process required by this by-law shall not be required for emergency work necessary for the protection of the health or safety of the public, provided that the work is performed or has been ordered to be performed by an agency of the commonwealth or a political subdivision thereof.
- (4) The Commission shall be notified prior to the commencement of emergency work or within 24 hours after commencement in order to certify the work as an emergency project and that the work is performed only for the time and place certified by the Commission for the limited purpose to abate the emergency.

**§ 281-2. Filing procedures.****A. Request for determination of applicability.**

- (1) A request for determination of applicability shall be submitted to the Commission by certified mail or hand delivery to the Commission office located at the Town Hall.
- (2) The request for determination of applicability shall be in the form shown in the appendix marked "Form A."<sup>1</sup>
- (3) The request for determination of applicability shall be accompanied by four complete copies the applicant's plan which should include sufficient information to enable the Conservation Commission to determine the applicable scope of the project. The Commission may request up to four more copies of plans for each project.
- (4) The request for determination of applicability shall be accompanied by a check or money order made payable to the Town of Carver for \$125 to cover administrative costs. **[Amended 4-11-2023 ATM by Art. 19]**
- (5) The request for determination of applicability shall be accompanied by a check or money order made payable to the local newspaper designated by the Commission to cover the publication costs required in accordance with the open meeting law, MGL c. 39, § 23B.<sup>2</sup>
- (6) The request for determination of applicability shall be accompanied by a certification in the form of an affidavit of service shown in the Appendix marked "Form B"<sup>3</sup> informing the Department of Environmental Protection and the owner, if the owner is not the applicant, that a determination is being requested under MGL c. 131, § 40.

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1. Editor's Note: Form A is on file in the Town offices.

2. Editor's Note: MGL c. 39, § 23B, was repealed 7-1-2009 by St. 2009, c. 28, § 20. See now MGL c. 30A, §§ 18 through 25.

3. Editor's Note: Form B is on file in the Town offices.

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- (7) The Conservation Commission shall hold a public hearing within 21 days of its determination that the applicant's filing is complete. Prior to making such determination, the Conservation Commission may request additional information pertinent to the application.

B. Notice of intent.

- (1) A notice of intent shall be submitted to the Commission by certified mail or by hand delivery to the Commission office located at the Town Hall.
- (2) A notice of intent shall be in the form shown in the Appendix as "Form C."<sup>4</sup>
- (3) The notice of intent shall be accompanied by eight complete copies of the applicant's plan, which should include sufficient information to enable the Commission to determine the applicable scope of the project.
- (4) The Commission at all times reserves the right to require that applicant's notice of intent be submitted by a professional person such as a land surveyor or civil engineer.
- (5) The notice of intent shall be accompanied by a filing fee the amount of which shall be determined by 801 CMR 4.02(310)<sup>5</sup> (Executive Office for Administration and Finance) based on the MA DEP fees as listed on their website, as may be amended from time to time, plus an additional cost of \$125 to cover administrative expenses. Payment shall be in the form of a check or money order. **[Amended 4-11-2023 ATM by Art. 20]**
- (6) The notice of intent shall be accompanied by an authorization form to authorize the newspaper to bill the publication costs required in accordance with the Wetlands Protection Act, MGL c. 131, § 40. The applicant will be billed directly by the newspaper. **[Amended 4-11-2023 ATM by Art. 21]**
- (7) The Commission shall have the authority to deny any project in which it determines that the application is incomplete or requires additional information not provided by the applicant.
- (8) Any person filing a notice of intent with the Commission shall provide the Commission with an affidavit confirming that all appropriate Town officials, committees, or boards having joint jurisdiction over the proposed project have been provided with a copy thereof by certified mail or hand delivery.
- (9) The Commission shall not take final action pursuant to a notice of intent until all officials and boards having joint jurisdiction over the proposed project have had at least 14 days from receipt of notice to file written comments and recommendations with the Commission.
- (10) The Commission shall have the authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant and deemed necessary

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4. Editor's Note: Form C is on file in the Town offices.

5. Editor's Note: So in original. See 801 CMR 4.02, Subdivision 990(1).

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by the Commission in its discretion or by other Town boards and officials, as appropriate.

C. Notice to abutters and property owners.

- (1) Any person filing a permit application with the Commission shall also give written notice thereof, by certified mail or hand delivery, to all abutters using the most recent applicable tax list of the Assessors.
- (2) Abutters shall include owners of land directly opposite on any public or private street or way, and the abutters to abutters within 100 feet of the property line of the applicant, including in any other municipality.
- (3) The notice to abutters shall include a complete copy of the applicant's plan if the Commission so requests or shall state where copies may be examined or obtained by the abutters.
- (4) The applicant shall submit a complete copy of both the permit application and the determination by the Commission regarding the application to the property owner and any other persons determined by the Commission as eligible to receive such information.
- (5) The applicant shall inform all persons designated by the Commission as landowners other than the applicant, abutters, or persons determined by the Commission to be eligible to receive such information of the time and location of the public hearing scheduled by the Commission. Notice shall be given by certified mail or hand delivery at least 14 days prior to the public hearing.
- (6) The applicant shall provide the Commission with an affidavit confirming that all appropriate person or persons have been provided with the appropriate notice and plans as determined by the Commission.

D. Consultant fee.

- (1) Upon receipt of a permit application or request for determination of applicability, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic, and drainage analysis; and researching environmental or land use law.
- (2) The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. If a fund for consultant expenses and fees is authorized by the Town Meeting, or by any general or special law, the applicant's fee shall be put into such fund, and the Commission may draw upon that fund for specific consultant services approved by the Commission at one of its public meetings. Any unused portion of the consultant fee shall be returned to

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the applicant unless the Commission decides at a public meeting that additional services will be required.

- (3) The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.
- (4) The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit application or request for determination filed by a government agency.
- (5) Amount of fee.
  - (a) The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

Project Cost	Maximum Fee
Up to \$100,000	\$500
\$100,001 to \$500,000	\$2,500
\$500,001 to \$1,000,000	\$5,000
\$1,000,001 to \$1,500,000	\$7,500
\$1,500,001 to \$2,000,000	\$10,000

- (b) Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged an additional \$2,500 maximum fee per increment.
  - (6) The project cost means the estimated, entire cost of the project, including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this by-law. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.
- E. Rules and regulations. After due notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this section. 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 effects of this section.

### § 281-3. Plans.

- A. General. The applicant shall provide the following information upon submission of the application:

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- (1) All drawings shall be drawn with the title designating the name of the project, location and names of the person or persons preparing the drawings, and the date prepared, including the last revision date.
  - (2) Drawings shall be stamped and signed by a duly qualified registered land surveyor of the Commonwealth of Massachusetts. Plans depicting proposed drainage or septic systems must be stamped by a registered professional engineer.
  - (3) An 8 1/2 inch x 11 inch photocopy of the USGS quad sheet, showing location of the proposed activity and the outline of the area in which the activity is located.
  - (4) An 8 1/2 inch x 11 inch section of the Town of Carver property map on which the site of the proposed activity is outlined in red.
- B. Technical data. The technical data shall be in narrative form with calculations submitted as necessary to substantiate the designs proposed and shall include:
- (1) A description of any alterations to the 100-year flood storage capacity of the site. If a change of flood storage capacity is proposed, demonstrate compensatory storage at every elevation in the floodplain.
  - (2) Maximum groundwater elevations must be given. The calendar dates of measurement, samplings and percolation tests shall be included.
  - (3) Soil characterizations in representative portions of the site, including depth of peat, muck and organic matter in wetland areas.
  - (4) A stormwater management plan and calculations of runoff characteristics based on the following criteria:
    - (a) On-site drainage systems: ten-year.
    - (b) Roadway cross-culverts: twenty-five-year.
    - (c) Retention/detention: two-year and 100-year.
  - (5) Runoff characteristics should be calculated for pre- and post-development conditions using the standard methods described in the U.S. Soil Conservation Service National Engineering Handbook.<sup>6</sup>
  - (6) Hydrographs that illustrate runoff characteristics before and after the proposed activity.
  - (7) An erosion control plan shall be submitted describing all methods to control erosion and siltation on site, temporarily and permanently.
- C. Site plan. The applicant shall submit a site plan, at a scale of one inch equals not more than 50 feet, showing the following items:
- (1) Existing and proposed contours (in contrasting symbols) shall be expressed in feet above sea level with intervals no greater than three feet. Date of ground survey shall be given.

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6. Editor's Note: See now the USDA National Resources Conservation National Engineering Handbook

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- (2) The delineation of all wetlands, lands subject to flooding, water bodies, waterways, ditches, creeks, rivers, streams, ponds, whether natural or man-made, continuously or intermittently flowing. The upland boundary of all bordering vegetative wetlands shall be shown. The 100-year flood elevation shall be shown.
  - (3) A delineation of all alterations proposed in or having an impact on wetlands.
  - (4) Existing stone walls; buildings, rock ridges and outcroppings shall be shown.
  - (5) Location, extent, and area of all existing and proposed structures, roadways, paved areas, septic systems, wells, tanks, and utility easements.
  - (6) Proposed lowest elevations of cellars or floors.
  - (7) Existing and proposed location, rim elevation and invert elevation of all catch basins, drains, culverts, and other drainage structures immediately upstream and downstream of the site, as well as those on-site.
  - (8) Details and locations for all temporary erosion controls proposed.
  - (9) Proposed permanent pollution control devices on site, such as: hooded catch basins flow dissipaters, or vegetative buffers.
  - (10) Cross sections showing existing and proposed slope, elevations, bank and bottom conditions of each watercourse to be altered. Locations of cross sections shall be specified.
  - (11) Proposed location of any fill material which will be stored on-site.
  - (12) State on plan the location and elevation of bench mark used for survey and datum.
  - (13) The "limit of work" line shall be shown.
- D. Rules and regulations. After due notice and public hearing, the Commission may promulgate rules and regulations to fulfill the purposes of this section. 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 effects of this section.

**§ 281-4. Enforcement; violations and penalties; security.****A. Enforcement.**

- (1) No person shall remove, fill, dredge, build upon, degrade or otherwise alter resource areas protected by this by-law, or cause, suffer or allow such activity to continue or allow such fill or other alteration to be left in place without the required authorization pursuant to this by-law.
- (2) Enforcement orders shall be issued by Commission members or the Conservation Agent in order to secure prompt and continued compliance with Chapter 281, Wetlands, or work performed under superseding or final orders issued by the Department of Environmental Protection.



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- (3) The enforcement order shall be in the form shown in the Appendix marked "Form D."<sup>7</sup>
  - (4) The Commission or its agent or other duly authorized employee shall have authority to enter upon privately owned land for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary.
  - (5) The Commission shall have the authority to enforce this by-law, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.
  - (6) Any person who violates provisions of this by-law may be ordered to restore the property to its original condition and take any other action that the Commission deems necessary to remedy such violations.
  - (7) Upon the request of the Commission, the Select Board and Town Counsel shall take legal action for enforcement under civil law.
  - (8) Upon the request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
  - (9) Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
  - (10) Any person who violates any provision of this by-law, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of \$50.
  - (11) Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the by-law, regulations, permits or administrative orders violated shall constitute a separate offense.
  - (12) Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the by-law, regulations, permits or administrative orders violated shall constitute a separate offense.<sup>8</sup>
- B. Security. As part of a permit issued by this by-law, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be wholly or in part by one or more of the methods described below:
- (1) By a proper bond with sureties satisfactory to the Commission payable to the Town or deposit of money or negotiable securities to be held by the Town Treasurer or other undertaking of financial responsibility sufficient in the opinion of the Commission to secure compliance with the order of conditions. Such bond or deposit shall be released upon issuance of a certificate of compliance.

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7. Editor's Note: Form D is on file in the Town offices.

8. Editor's Note: So in original; duplicates prior subsection.

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- (2) By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Carver whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.
- (3) A certificate of compliance may extinguish only those bonds, securities, covenants, restrictions, or easements listed in Subsection B(1) and (2), but shall not extinguish any other conservation restriction(s) that might run with the land.

#### § 281-5. Definitions.

The definitions applicable to Chapter 281, Wetlands, shall be the same as set forth in 310 CMR 10.00 except for the following modifications to those definitions and additional definitions.

**AESTHETICS** — The relevant qualities to be protected under Chapter 281, Wetlands, are those natural and natively scenic impressions of our ponds, lakes, streams, rivers, and the lands bordering them. The aesthetic trust of the Commission shall be the preservation of a perception of the land, which is most conducive to a continued wildlife habitat, a natural aquatic system, and a protective buffer between our wetland recourses and human development activities.

**ALTER** — Alter means to change the condition of any area subject to protection by this by-law. Examples of alterations include, but are not limited to, the following: **[Amended 4-11-2023 ATM by Art. 22]**

- A. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- B. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- C. Drainage or other disturbance of water level or water table;
- D. Placing of fill, or removal of materials, which would alter elevations;
- E. Driving of piles, erection or repair of buildings, walls, or structures of any kind;
- F. Placing of obstructions or permanent objects or structures in water;
- G. Destruction of plant life, including the cutting of trees, shrubs, flowers or wild grasses;
- H. Introduction of nonnative grasses, shrubs, trees or other plantings;
- I. Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- J. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;

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K. Use of chemicals for plant or pest control.

**APPLICANT** — Any person who files a permit application or request for determination or applicability, or on whose behalf such an application or request is filed, is an applicant.

**CONSERVATION COMMISSION AGENT** — The Agent shall be the duly authorized representative of the Commission, with the authority to carry out certain of the Commission's functions. These shall include, but not be limited to, executing the administrative duties of the Commission, site visits, determination of filing requirement for applicants, determination of filing requirements of all property under the jurisdiction of this by-law, determination of application completeness and filing requirements.

**ISSUING AUTHORITY** — In the Town of Carver, both under the state wetland regulations and under the local by-laws, the issuing authority is the Conservation Commission.

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

**RECREATION** — Recreation under Chapter 281, Wetlands, is defined as the use and enjoyment of our natural surroundings in a manner consistent with their preservation. Activities shall not hinder access to wetlands and related water recourses, adversely affect wildlife habitat, and/or introduce invasive species. **[Amended 4-11-2023 ATM by Art. 23]**

**VARIANCE** — The Commission shall have the power, after the filing of a notice of intent and the conduct of a public hearing, to issue a variance to an applicant requesting to perform activities as described in § 281-1C(3) or (4) of this by-law. Such variance shall be set forth by the issuance of an order of conditions by the Commission. In order for the Commission to issue a variance with respect to a particular project, it must specifically find, based on clear and convincing evidence set forth by the applicant, that owing to circumstances relating to the soil conditions, hydrological conditions, topography of such land and especially affecting such land but not generally affecting wetlands within the Town, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise, to the applicant, and that desirable relief may be granted without material detriment to the values protected by this by-law and without substantially derogating from the extent or purpose of this by-law. The Commission may impose conditions, safeguards and limitations in a variance to protect or further the interests protected by this by-law. Variances are intended to be granted only in rare and unusual cases.

#### **§ 281-6. Severability.**

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



## **Chapter 290**

### **ZONING**

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#### **Part 2** **USE, DIMENSIONAL, AND TIMING** **REGULATIONS**

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**Town Meeting and Attorney  
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**[HISTORY: Adopted by the Town Meeting of the Town of Carver 7-26-1963; amended through the 4-12-2022 ATM.<sup>1</sup> Subsequent amendments noted where applicable.]**

## Part 1 PURPOSE

### § 290-1.1. Purpose and authority.

These by-laws are enacted to promote the general welfare of the Town of Carver; to regulate the use of land throughout the town to protect the health and safety of its inhabitants; to lessen congestion in the streets; to provide adequate light and air; to prevent overcrowding of land; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to preserve the cultural, historical and agricultural heritage of the community; and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by the provisions of the Zoning Act, G.L. c. 40A, as amended, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

## Part 2 USE, DIMENSIONAL, AND TIMING REGULATIONS

### Article 2-1 DISTRICTS

#### § 290-2-1.1. Establishment.

- A. For the purposes of this By-Law, the Town of Carver is hereby divided into the following districts:

RESIDENTIAL-AGRICULTURAL	RA
GENERAL BUSINESS	GB
VILLAGE BUSINESS	VB
GREEN BUSINESS PARK	GBP
HIGHWAY COMMERCIAL	HC
VILLAGE	V
INDUSTRIAL "A"	IA

1. Editor's Note: The Zoning By-law was also amended 4-27-1998, 6-16-2003, 5-19-2009 ATM, 5-17-2010 ATM, 11-8-2010 STM, 6-14-2011 ATM, 6-4-2012 ATM/STM, 12-6-2012 STM, 6-3-2013 ATM, 6-16-2014 ATM, 4-13-2015 ATM, 4-11-2016 ATM, 4-11-2017 ATM, 4-24-2018 ATM, 4-22-2019 ATM, and 4-13-2021 ATM. The Zoning By-law was amended 4-22-2019 ATM by Art. 13 to change "Board of Selectmen" and "Selectmen" to "Select Board."

§ 290-2-1.1

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§ 290-2-2.1

INDUSTRIAL "B"	IB
INDUSTRIAL "C"	IC
AIRPORT	AP
SPRING STREET INNOVATION DISTRICT	SSID

B. "Overlay" districts are also hereby created:

- (1) WATER RESOURCE PROTECTION DISTRICT (see Article 4-3)
- (2) WETLAND DISTRICT (see Article 4-4)
- (3) PLANNED TOURIST COMMERCIAL DISTRICT (PTCD) (see Article 4-5)
- (4) WIRELESS COMMUNICATION FACILITIES DISTRICT (WCF) (see Article 4-6)
- (5) PLANNED NEIGHBORHOOD DEVELOPMENT (PND) OVERLAY DISTRICT (see Article 2-8)
- (6) LANDFILL OVERLAY DISTRICT (see Article 4-7)

C. The boundaries of these districts are defined and set forth on the map entitled, "Zoning Map, Town of <sup>10</sup>Carver, Massachusetts", dated September 1999, as amended June, 2010 and as may be subsequently amended by vote of Town Meeting. This map is on file with the Town Clerk. This map and all explanatory matter therein are hereby made a part of this Zoning By-Law.

### **§ 290-2-1.2. Boundary Definition.**

Except when labelled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines, boundary or lot lines at water body shoreline or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or at an angle to such lines shall be construed to be actually parallel, perpendicular, or at an angle thereto. When not located in any other way, boundaries shall be determined by scale from the map.

## **Article 2-2**

### **USE REGULATIONS**

#### **§ 290-2-2.1. General.**

- A. No structure shall be erected or used or land used except as set forth in § 290-2-2.3, "Use Regulation Schedule", or in § 2-2.4, "Accessory Buildings and Uses", unless exempted by § 2-2.5, or by statute. Uses not expressly provided for herein are prohibited.
- B. Symbols employed below shall mean the following:

§ 290-2-2.1

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§ 290-2-2.3

- Y A permitted use.
- N An excluded or prohibited use.
- SP A use authorized under special permit from the Board of Appeals as provided under Article 5-3.
- SP\* A use authorized under special permit from the Planning Board as provided under Article 5-3.
- SP A use authorized under special permit from the Select Board as provided under Article 5-3.

**§ 290-2-2.2. Applicability.**

When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

**§ 290-2-2.3. Use Regulation Schedule. [Amended 4-11-2023 ATM by Art. 29]**

USE REGULATION SCHEDULE											
Principal Use	RA	HC	GB	VB	V	GBP	IA	IB	IC	AP	SSID
A. RESIDENTIAL											
Detached single-family dwelling	Y	N	Y	N	Y	N	N	N	N	N	N
Conservation subdivision	SP*	N	N	N	N	N	N	N	N	N	N
Duplex and Two Family Dwelling	SP*	N	SP*	SP*	SP*	N	N	N	N	N	N
Planned Neighborhood Development	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*
Townhouse Development	SP*	SP*	SP*	N	SP*	N	N	N	N	N	N
Mixed Use Structures	N	N	Y	Y	Y	N	N	N	Y	N	SP*
Dwelling units above commercial or office uses	N	N	SP*	SP* <sup>6</sup>	SP* <sup>6</sup>	N	N	N	SP*	N	SP*
Agricultural use exempted by G.L. c. 40A, s. 3	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Agricultural use not exempted by G.L. c. 40A, s. 3	SP	N	Y	Y	Y	N	Y	Y	Y	Y	N
Cranberry receiving station	SP	N	SP*	N	N	N	Y	Y	Y	Y	N
Child care facility or day care facility exempted by GL c. 40A, s. 3	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Municipal facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Airport	N	N	N	N	N	N	N	N	N	Y	N
Helipoint	N	N	N	N	N	N	SP*	SP*	N	SP*	N
Cemetery	SP	N	SP	N	SP	N	N	N	N	SP	N
Earth Removal+	Y	N	Y	N	N	N	Y	Y	N	Y	N
Mobile Home Park	SP	N	N	N	N	N	SP	SP	N	SP	N

USE REGULATION SCHEDULE											
Principal Use	RA	HC	GB	VB	V	GBP	IA	IB	IC	AP	SSID
B. COMMERCIAL	RA	HC	GB	VB	V	GBP	IA	IB	IC	AP	SSID
Office, including medical office	N	Y	Y	Y	SP*	Y	Y	N	Y	SP*	Y
Bank, including freestanding ATM and drive-in facilities	N	Y	Y	Y	SP*	Y	SP*	N	SP*	SP*	SP*
Retail sales with manufacturing or assembly in a building less than 20,000 sq. ft. building footprint.	N	Y	SP*	Y	SP*	Y	SP*	SP*	N	SP*	SP*
Retail sales or rental less than 80,000 square feet in gross floor area for a single structure without display outdoors	N	Y	Y	N	SP*	Y	SP*	N	N	N	SP*
Retail sales or rental less than 80,000 square feet in gross floor area for a single structure with display outdoors	N	Y	SP*	N	N	SP*	SP*	N	N	N	SP*
Retail sales or rental less than 25,000 sq. ft. in gross floor area for a single structure without display outdoors	N	Y	SP*	Y	N	Y	SP*	N	N	N	SP*
Retail sales or rental less than 25,000 sq. ft. in gross floor area for a single structure with display outdoors <sup>1</sup>	N	Y	SP*	Y	N	Y	SP*	N	N	N	SP*
Motor vehicle service station	N	SP*	SP*	SP*	N	N	Y	N	N	N	N
Motor vehicle repair shop	N	SP*	SP*	SP*	N	N	Y	N	N	N	N
Establishment for the sale or consumption of alcoholic beverages, with or without entertainment, including clubs, whether for profit or not for profit	N	SP	SP	SP	SP	N	SP	SP	N	SP	SP
Junkyard or automobile graveyard	N	N	N	N	N	N	N	N	N	N	N
Hospital or sanitarium	N	Y	SP	N	N	Y	SP	N	N	N	SP
Convalescent or nursing home, or assisted elderly housing	SP	Y	SP	N	N	N	SP	N	N	N	SP
Hotel or motel	N	Y	SP*	N	N	Y	SP*	N	N	N	SP
Bed and Breakfast	SP*	N	Y	Y	SP*	N	N	N	N	N	SP
Print shop	N	Y	SP*	Y	N	Y	Y	N	Y	N	Y
Craftsman/Tradesman	N	Y	Y	Y	Y	Y	N	N	Y	N	Y
Essential services	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Service shop	N	Y	Y	Y	Y	N	N	N	Y	N	Y

USE REGULATION SCHEDULE											
Principal Use	RA	HC	GB	VB	V	GBP	IA	IB	IC	AP	SSID
Restaurant, not including fast-food or drive-in restaurant	N	Y	Y	Y	SP*	SP*	SP*	N	N	SP*	Y
Fast-Food or drive-in restaurant	N	SP*	SP*	SP*	SP*	N	N	N	N	SP*	SP*
Places of assembly	N	SP*	SP*	N	SP*	N	SP*	N	N	N	N
Animal Hospital or Hobby or Commercial Kennel <sup>2</sup>	SP*	SP*	SP*	SP*	SP*	SP*	Y	SP*	N	N	SP*
Drive-in service at facility other than restaurant or bank	N	SP*	SP*	SP*	SP*	SP*	SP*	N	SP*	SP*	SP*
Adult Use	N	N	N	N	N	N	SP	SP	N	N	N
Landscaping business <sup>3</sup>	SP*	N	SP*	N	SP*	N	Y	N	N	N	N
Nursery/Greenhouse	Y	N	Y	SP*	SP*	N	Y	Y	Y	N	N
Car wash	N	N	SP*	N	N	N	Y	N	N	N	N
Commercial recreation, outdoors <sup>3</sup>	SP*	N	SP*	N	N	N	SP*	N	N	N	N
Major Commercial Project	N	SP*	SP*	N	SP*	SP*	SP*	SP*	N	SP*	SP*
Tattoo Parlor/Body Piercing	N	SP*	N	N	N	N	SP*	SP*	N	N	N
Non-Exempt educational use	N	Y	N	SP*	N	Y	SP*	SP*	N	N	Y
<b>C. INDUSTRIAL</b>	<b>RA</b>	<b>HC</b>	<b>GB</b>	<b>VB</b>	<b>V</b>	<b>GBP</b>	<b>IA</b>	<b>IB</b>	<b>IC</b>	<b>AP</b>	<b>SSID</b>
Light manufacturing in a building with less than 20,000 sq.ft. building footprint	N	N	N	N	N	Y	Y*	Y*	N	SP*	Y
Light manufacturing in a building with more than 20,000 sq.ft. building footprint	N	N	N	N	N	Y	SP*	Y	Y	N	Y
Manufacturing, processing, assembly, or fabrication in a building with less than 20,000 sq. ft. building footprint	N	N	N	N	N	Y	SP*	SP*	N	N	N
Manufacturing, processing, assembly, or fabrication in a building with more than 20,000 sq. ft. building footprint	N	N	N	N	N	Y	SP*	SP*	N	N	N
Wholesale, warehouse, or distribution facility in a building with less than 20,000 sq. ft. building footprint	N	N	N	N	N	Y	Y	Y	Y	SP*	SP*
Wholesale, warehouse, or distribution facility in a building with more than 20,000 sq. ft. building footprint	N	N	N	N	N	Y	SP*	SP*	N	SP*	SP*
Bituminous concrete or concrete batching plant	N	N	N	N	N	N	N	SP*	N	N	N

USE REGULATION SCHEDULE											
Principal Use	RA	HC	GB	VB	V	GBP	IA	IB	IC	AP	SSID
Contractor's yard	N	N	N	N	N	SP*	SP*	SP*	Y	N	SP*
Sawmill <sup>4</sup>	SP	N	SP*	N	N	SP*	SP*	SP*	N	N	N
Truck, bus or freight terminal	N	N	N	N	N	SP*	SP*	SP*	N	SP*	N
Auto Body Shops	N	N	N	N	N	N	Y	Y	N	N	N
Self-Storage Facility	N	N	N	N	N	Y	Y	N	N	Y	N
Research and Development facilities, not limited to Renewable or Alternative Energy research and development facilities	N	N	N	N	N	Y	Y	Y	Y	N	Y
Manufacturing, processing, assembly, or fabrication of alternative energy components	N	N	N	N	N	Y	N	N	Y	N	Y
Publicly Owned Treatment Works or POTW	N	N	N	N	N	Y	Y	Y	N	N	Y
Privately Owned Wastewater Treatment Facility or PWTF <sup>5</sup>	N	N	N	N	N	SP*	SP*	SP*	N	N	SP*
Large-scale ground mounted solar photovoltaic installations	SP*	N	N	N	N	SP*++	SP*	SP*	SP*	SP*++	N
Battery Storage Tier 1	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Battery Storage Tier 2	SP*	SP*	SP*	N	N	SP*	SP*	SP*	SP*	SP*	SP*
Battery Storage Tier 3	N	SP*	N	N	N	N	SP*	SP*	SP*	SP*	N
+ Allowed by right with approval by the Earth Removal Committee under the General Bylaws.											
++ Denotes Large Scale Ground Mounted Solar Photovoltaic limited to 15% maximum area within the underlying zoning district											
+++ See Article 4-11											
<sup>1</sup> Outdoor displays and sales of flowers and plants are allowed by special permit in the Village District.											
<sup>2</sup> The raising, breeding, and training of dogs that qualifies as agricultural use under G.L.c. 40A Section 3 shall be allowed on parcels of more than 5 acres in any district. See Chapter 114, Article II, of the General By-laws											
<sup>3</sup> Minimum sites of 5 acres in RA district											
<sup>4</sup> Minimum sites of 5 acres in RA District											
<sup>5</sup> Does not include package treatment plants as accessory uses to subdivision, commercial or industrial development which are permitted by right as an accessory use structure.											

#### § 290-2-2.4. Accessory Buildings and Uses.

Any use permitted as a principal use is also allowed as an accessory use, as are others customarily accessory and incidental to permitted principal uses. The occupation or profession shall be carried on wholly within the principal building, or alternately the home occupation may be carried on within a structure accessory thereto.

- A. Home Occupations As of Right. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by a resident of that dwelling; provided, however, that all of the following conditions shall be satisfied:



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- (1) The occupation or profession shall be carried on wholly within the principal building; or alternately the home occupation may be carried on within a structure accessory thereto which has been in existence at least three (3) years, without extension thereof.
- (2) Not more than thirty (30) percent of the combined floor area of the residence and any qualified accessory structures shall be used in the home occupation.
- (3) No person not a member of the household shall be employed on the premises in the home occupation.
- (4) The home occupation shall not serve clients, customers, pupils, salespersons, or the like on the premises.
- (5) There shall be no sign, exterior display, no exterior storage of materials, and no other exterior indication of the home occupation, or other variation from the residential character of the premises.
- (6) No disturbance, as defined in § 290-3-8.1, shall be caused, nor shall the home occupation use or store hazardous materials in quantities greater than associated with normal household use.
- (7) Traffic generated shall not exceed volumes normally expected in a residential neighborhood.

B. Home Occupations by Special Permit. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by a resident of that dwelling upon the issuance of a special permit by the Board of Appeals; provided, however, that all of the following conditions shall be satisfied:

- (1) All of the requirements of § 290-2-2.4A(1), (2), and (7).
- (2) Not more than one (1) person not a member of the household shall be employed on the premises in the home occupation.
- (3) An unlighted sign of not more than three (3) square feet in area may be permitted. The visibility of exterior storage of materials and other exterior indications of the home occupation, or other variation from the residential character of the premises, shall be minimized through screening and other appropriate devices.
- (4) Parking generated by the home occupation shall be accommodated off-street, other than in a required front yard, and shall not occupy more than 35% of lot area.
- (5) No disturbance, as defined in Article 3-8, shall be caused. The use or storage of hazardous materials in quantities greater than associated with normal household use shall be subject to design requirements to protect against discharge to the environment.

C. Accessory Scientific Uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific

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research or scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided that the Board finds that the proposed use does not substantially derogate from the public good.

- D. **Boarders in Single-Family Dwelling.** The renting of rooms and/or furnishing of board to not more than one person in a single-family dwelling by the owner/occupant thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to two, three or four persons in a single-family dwelling by the owner/occupant thereof shall be an accessory use permitted upon the issuance of a special permit by the Board of Appeals.
- E. **Dimensional Regulation; Accessory Uses.** Accessory structures may not be placed within required yards; provided, however, that
  - (1) permitted signs may be located within a required front yard; and
  - (2) a permitted one-story accessory structure may be located within a required rear or side yard provided that it is not located within 10 feet of any property line or in front of the front line of the principal building. However, where a detached single-family dwelling is located one hundred (100) feet or more back from the front lot line, an accessory building may be placed within the front yard provided that said accessory structure is located no closer than sixty (60) feet from the front property line and meets all other setback requirements for an accessory structure. An accessory structure in a mobile home park may be located any distance from any property line, provided it is behind the front line of the principal structure and at least five (5) feet from any dwelling.
  - (3) garages, tool sheds, shops, well houses, and the like shall not exceed a floor area of 700 square feet. Barns or buildings used to house animals or poultry shall not exceed a floor area of 600 square feet, unless located on a lot greater than 5 acres.
- F. **Major Recreational Equipment.** No major unregistered recreational equipment shall be stored on any lot in a residential district other than in a carport or enclosed building or behind the front building line of the principal building, provided however that such equipment may be parked anywhere on residential premises for a period not to exceed seventy-two (72) hours. No such equipment shall be used for living or housekeeping purposes when stored on a residential lot, or in any location not approved for such use. All equipment which does not conform to these regulations shall be considered nonconforming.

#### **§ 290-2-2.5. Nonconforming Uses and Structures.**

- A. **Applicability.** This zoning by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning by-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

- B. Nonconforming Uses. The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:
- (1) Change or substantial extension of the use;
  - (2) Change from one nonconforming use to another, less detrimental, nonconforming use.
- C. Nonconforming Structures. The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:
- (1) Reconstruction, extension or structural change of a nonconforming structure, provided said reconstruction, extension or change does not increase an existing nonconformity or create a new nonconformity including, but not limited to, an extension of an exterior wall at or along the same nonconforming distance within a required yard. Except as provided in § 290-2-2.5D, any increase in an existing structural nonconformity or creation of a new structural nonconformity may be permitted only upon the issuance of a variance.
  - (2) Alteration to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;
  - (3) Reconstruction after a catastrophe, provided that the owner shall apply for a building permit and start operations for reconstruction on said premises within eighteen (18) months after such catastrophe, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure.
- D. Nonconforming Single and Two Family Residential Structures. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Zoning Enforcement Officer that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and the issuance of a building permit, where applicable. In the event that the Zoning Enforcement Officer determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.
- E. Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law.

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- F. Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert back to a nonconforming use.
- G. The following circumstances shall not be deemed to increase the non-conforming nature of any residential structure:
  - (1) alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient area, where the alteration will also comply with all of said current requirements.
  - (2) alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements.
  - (3) alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.
  - (4) alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.
  - (5) alteration to a non-conforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

#### **§ 290-2-2.6. Accessory Apartments.**

##### **A. Purpose.**

- (1) For the purpose of enabling elderly (as defined by 55 years of age and older) and/or handicapped persons to provide small additional dwelling units to rent or reside in without adding to the number of buildings in the Town, or substantitally altering the appearance of the Town for the reason of (a) enabling elderly/handicapped owners of single family dwellings to share space and the burdens of home ownership or (b) providing an alternative housing option for elderly/handicapped persons. Accessory apartments shall not be allowed in a Townhouse Development pursuant to Article 3-10.
- (2) An accessory apartment is incorporated within or attached to a single-family dwelling and is a subordinate part of the single-family dwelling and complies with the criteria below.

##### **B. Requirements.**

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- (1) The gross (floor) living area shall not be greater than or be limited to eight hundred (800) square feet.
  - (2) Once an accessory apartment has been added to a single-family residence, the accessory apartment shall never be enlarged beyond the eight hundred (800) square feet.
  - (3) The owner(s) of the residence in which the accessory unit is created must continue to occupy the single-family house as their primary residence. The Permit shall automatically lapse if the owner no longer resides at the home.
  - (4) This section shall specify that the owner must reside at the home. The owner shall provide to the Building Commissioner a notarized letter stating that the owner does live at this home and that this is their primary residence.
  - (5) Any new outside entrance to serve an accessory apartment shall be located on the side or in the rear of the building.
  - (6) Only one (1) accessory apartment may be created within a single-family house or house lot.
  - (7) An accessory apartment may not be occupied by more than three (3) people.
  - (8) All parking to the single-family home and the accessory apartment shall be provided off-street.
- C. Conditions of Issuance of Permit. Permit for an accessory apartment is only good for three (3) years. Subsequent permits issued for an existing accessory apartment shall be granted after certification by affidavit is made by the applicant to the Building Commissioner that the accessory apartment has not been extended, enlarged or altered to increase its original dimensions, as defined in the initial permit application, and that the unit still meets the requirements of § 290-2-2.6B.

**§ 290-2-2.7. Accessory Dwelling Units above Commercial Developments.**

- A. Purpose. For the purpose of allowing a mixture of different types of residential housing in the Town without increasing the number of buildings, or substantially altering the appearance of the Town and to allow greater utilization of commercial developments, a special permit may be granted in accordance with the following requirements.
- B. Procedure.
- (1) The Planning Board is hereby designated the Special Permit Granting Authority (SPGA) for Accessory Dwelling Units above Commercial Developments. Accessory dwelling units above commercial developments may only be allowed in the Village and General Business Districts.
  - (2) The SPGA shall follow the procedural requirements for special permits as set forth in Section 9 of M.G.L. Chapter 40A. After notice and public hearing and after due consideration of the reports and recommendations of other town boards, commissions and or departments, the SPGA may grant such a permit.

- (3) Commercial buildings may be permitted a base density of two accessory dwelling units to be located on the second floor. Additional accessory dwelling units may be permitted in the special permit application by the transferring of development rights. The number of accessory dwelling units that may be permitted shall be determined by using the total gross square feet of first floor commercial space multiplied by .001. The maximum number of accessory dwelling units allowed for any commercial building shall be 15.

C. Design Requirements.

- (1) All commercial developments with accessory dwelling units shall be limited to a maximum of two stories.
- (2) The primary entrance/stairway to the second story accessory dwelling units shall be enclosed.
- (3) One clearly marked parking space within 100 feet of the primary entrance should be provided per unit. This space may be double counted towards the total parking requirement of the development depending on the commercial uses, traffic flow and other site conditions as determined by the Board. In cases where the Board may have concerns about the total number of parking spaces, a condition of the permit may require the applicant to provide additional spaces.
- (4) The development shall conform to the applicable requirements of Title V of the State Environmental Code<sup>2</sup> and compliance with any conditions which may be imposed by the Board of Health with regard to sanitary wastewater disposal on the site.
- (5) The Architectural details including the textures of the walls and roof materials of new building or additions to existing buildings should enhance the rural character of the development and surrounding area. The use of pitched roofs, dormers and setbacks to alter the roofline is encouraged.
- (6) Design shall meet Massachusetts State Building Code.
- (7) All commercial developments with accessory dwelling units shall be limited to 1,000 square feet of total gross livable space/unit.
- (8) Dwelling units may be allowed on the ground floor under this Special Permit provision in a Village (V) or Village Business (VB) District provided they meet all other requirements under § 290-2-2.7.

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2. Editor's Note: See 310 CMR 15.00.

Article 2-3

DIMENSIONAL REQUIREMENTS

By-Law or by statute (see G.L. c. 40A, s.6).

§ 290-2-3.1. (Reserved)

§ 290-2-3.2. Table of Dimensional Requirements. [Amended 4-11-2023 ATM by Art. 31]

CARVER FINAL DRAFT												
REQUIREMENT	RA	HC	GB	VB <sup>a</sup>	V (Com.)	V (Res.)	GBP <sup>b</sup>	IA <sup>d</sup>	IB	IC <sup>c</sup>	AP	SSID <sup>e</sup>
Min. Lot Size <sup>4,5,10</sup> (X 1000 square feet)	60	60	40	30	30	30	60	60	60	60	40	60
FRONTAGE (feet)	150	250	200	100	100	100	175	175	175	250	150	175
FRONT SETBACK (feet) <sup>6</sup>	50	40	40	15	15	40	50	50 <sup>7</sup>	50 <sup>7</sup>	40	40	50
REAR YARD (feet)	50	40	25	15	15	40	40	30	30	40	30	40
SIDE YARD (feet)	30	40	25	15	15	25	40	30	30	40	30	40
MAX. BUILDING HEIGHT (feet) <sup>8,9,11</sup>	35	40	40	30	30	30	40 <sup>11</sup>	40	40	40	40	40
MINIMUM LOT WIDTH at building line (% of frontage in district)	80	80	80	80	80	80	80	80	80	80	80	80
MAXIMUM % OF LOT COVERED BY BUILDINGS	30	60	50	70	70	70	70	50	50	60	50	25
<sup>a</sup> Same as V (Comm.);												
<sup>b</sup> mix of HC and IA, IB;												
<sup>c</sup> IC same as HC since that is what the existing structures were under at the time of development;												
<sup>d</sup> Registered Marijuana Dispensaries, see § 290-4-11;												
<sup>e</sup> based on GBP												
<sup>4</sup> At least 70% of the minimum lot size shall be dry land; i.e., not taken up in streams, bogs, wetland and/or flood plain.												
<sup>5</sup> Portions of the lot less than 40 feet in width shall not be counted as any part of the minimum lot size.												
<sup>6</sup> Front setbacks shall be measured from the street layout line.												
<sup>7</sup> Provided, however, that this requirement shall be 60 feet where the subject property has frontage on a state numbered highway.												

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REQUIREMENT	RA	HC	GB	VB <sup>a</sup>	V (Com.)	V (Res.)	GBP <sup>b</sup>	IA <sup>d</sup>	IB	IC <sup>c</sup>	AP	SSID <sup>e</sup>
<sup>8</sup> Provided, however, that chimneys, spires, silos, and unoccupied towers erected on the roof of a principal structure may be erected to a height of 70 feet from the base of the principal structure on which it is erected where no detrimental effects on the surrounding area are caused.												
<sup>9</sup> In order to prevent the erection of structures which, due to height, would create hazardous obstacles to air navigation in the vicinity of the Plymouth Municipal Airport, the applicable requirements of Chapter Ninety of the General Laws of Massachusetts and the standards of the Federal Aviation Regulations shall be met. No structure shall be erected which exceeds the height limitations of the above regulations unless appropriate authority shall have been issued by the Plymouth Airport Commission or the Federal Aviation Agency.												
<sup>10</sup> Lot shape shall mean lots that are so distorted in configuration as to be detrimental to public health, safety, welfare or convenience, even though complying with the dimensional requirements established herein, shall, not be allowed. The minimum width of a lot from the front setback line to the rear house line shall be not less than 75 feet. The 75 ft. minimum shall not apply to rear lots, village districts or TDR overlay areas. Any lot to be created having frontage on an existing or proposed roadway, must meet the minimum lot size requirement for the zoning district wherein it is located, minus any easements and/or rights of way, except those for a governmental agency or public utility.												
<sup>11</sup> If a building contains more than two (2) stories, then this minimum requirement shall be increased by twenty-five (25) feet per story for each story that the building exceeds two stories in height up to a maximum setback requirement of two hundred (200) feet. For example, a building containing three (3) stories shall not be located closer than seventy-five (75) feet from the boundary line of the District and a building containing four (4) stories shall not be located closer than one hundred (100) feet from the boundary line of the District. Where a building or improvement is not divided into stories, a story shall be considered fifteen (15) feet in height.												
<sup>12</sup> Notwithstanding anything to the contrary in this Zoning Bylaw, Building Height shall mean the vertical distance measured from the mean finished grade of the ground adjoining the building or improvement to the highest point of such building or improvement, provided that steeples, cupolas, stage lofts, bulkheads, and other appurtenances above roof line shall not be considered as additional stories or considered in determining the height of a building or other improvement. Rooftop mechanicals and rooftop solar will be included in determining the overall height of the building.												
Municipal Facilities may be increased to 40 feet in height provided they meet all public safety standards, except that a water tower owned or operated by the North Carver Water District shall be considered Municipal Facilities, and shall not exceed 175 feet in height within the GBP District provided they meet all public safety standards.												

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**§ 290-2-3.3. Multiple Principal Structures.**

Except in the Residential District, more than one principal non-residential structure may be erected on a lot, pursuant to a special permit issued by the Planning Board in accordance with Article 5-3 herein and the following conditions:

- A. No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire;
- B. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles;
- C. All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises, and to each principal building.

**§ 290-2-3.4. Rear Lots.**

Rear lots shall be allowed only in the RA District. Individual lots in the RA District need not have the required amount of street frontage, provided that all of the following conditions can be met for each individual lot lacking such frontage:

- A. The area of said lot is at least three (3) acres.
- B. A building line is designated on the plan, and the width of the lot at that line equals or exceeds the number of feet normally required for street frontage in the district.
- C. Lot width is at no point less than 40 feet, and lot frontage is not less than 40 feet. Frontage shall meet all of the requirements contained in the definition for "frontage" in Part 6, herein.
- D. Not more than one (1) rear lot shall be created from a property, or a set of contiguous properties held in common ownership as of May 4, 1998. In order to be eligible for a rear lot, such property or set of contiguous properties held in common ownership as of May 4, 1998 shall not have been divided after such date. No further division of said property or properties shall be permitted after the creation of a rear lot. Documentation to this effect shall be submitted to the Building Inspector. The Building Inspector shall not issue a building permit for any rear lot without first establishing that compliance with this provision has been determined by the Planning Board.
- E. The front, rear, and side yards shall equal or exceed those required in the district.

**§ 290-2-3.5. Sight Obstruction.**

At corners, no sign (except signs erected by a public agency), fence, wall, hedge, or other obstruction shall be allowed to block vision between 2 1/2 and 8 feet above the street grade within an area formed by the intersecting street lines and a straight line joining the points of said street lines 20 feet back from their point of intersection.

## Article 2-4

**RATE OF DEVELOPMENT****§ 290-2-4.1. Purpose.**

The purpose of this article, "Rate of Development," is to promote orderly residential growth in the Town of Carver, consistent with the rate of residential growth, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies information, time, and capacity to incorporate such growth into the Town's Master Plan for the community, and to preserve and enhance existing community character and the value of property.

**§ 290-2-4.2. General.**

For the purposes of this article, a two-family structure shall constitute two dwelling units, and so on. An accessory apartment, townhouse and dwellings above a commercial use shall constitute a dwelling unit.

**§ 290-2-4.3. Procedures.**

Any residential building permits issued shall be issued in accordance with the following procedures:

- A. The Building Inspector shall act on each permit application in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require new submittal. No party shall submit more than three permit applications in a calendar month.
- B. Three (3) permits shall be issued in each month of Calendar Year 2006. In calendar Year 2007, four (4) permits shall be issued in the months of January, April, July and October, with three (3) permits in each of the remaining months. In calendar year 2008, three (3) permits shall be issued in March, June, September and November, with four (4) permits issued in each of the remaining months. In the calendar year 2009 four (4) permits shall be issued in each month. In calendar year 2010 five (5) permits shall be issued in January, April, July and October, with four (4) issued in each of the remaining months. Permits not issued in any month of the calendar year in accordance with this schedule shall be available in any subsequent month of that calendar year for issuance by the Building Inspector.
- C. The Building Inspector shall mark each application with the time and date of submittal, and shall act on each application in a timely manner.
- D. Any Building Permits not issued in any calendar year shall not be available for issuance in any subsequent year, except any permits available for the month of December can be carried over into the month of January the following calendar year.

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**§ 290-2-4.4. Exemptions.**

The provisions of this article shall not apply to, nor limit in any way, the granting of building or occupancy permits for:

- A. the enlargement, restoration, replacement, or reconstruction of dwellings existing on lots as of the date of passage of this by-law, but shall apply to the creation of an accessory apartment in accordance with § 290-2-4.2 above.
- B. permits for dwelling units within a division of land awarded a special permit pursuant to § 290-2-5.4 below.
- C. a single permit issued to an individual for the construction of a dwelling unit on a property or a set of contiguous properties in common ownership as of May 4, 1998.
- D. permits for commercial and industrial uses.
- E. An accessory apartment as regulated in § 290-2-2.6.
- F. A dwelling unit above a commercial development as regulated in § 290-2-2.7.
- G. Rear lots as regulated in § 290-2-3.4.

**§ 290-2-4.5. Extension.**

This article may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to January 1, 2011.

## Article 2-5

**SUBDIVISION PHASING****§ 290-2-5.1. Purpose.**

The purpose of this article, "Subdivision Phasing," is to assure and promote orderly growth that shall be phased so as not to unduly strain the town's ability to provide reasonable public facilities and services, so that it will not disturb the social fabric of the community, and so that it will be in keeping with the community's desired rate of growth, in accordance with the goals and objectives of the Town's Master Plan.

**§ 290-2-5.2. Applicability.**

The issuance of building permits for the construction of residential dwellings on any tract of land divided pursuant to G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Act, into more than seven (7) lots after the effective date of this by-law shall be subject to the following regulations and conditions set forth herein. The provisions of this by-law shall be applicable to all divisions of land within the Town of Carver even if approval under the Subdivision Control Law, G.L. c. 41, is not required (ANR). For the purposes of this bylaw, a "tract of land" shall mean a property or combination of properties which were in the same ownership and contiguous as of May 4, 1998.

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**§ 290-2-5.3. Permit Issuance Limitations.**

Not more than seven (7) building permits shall be issued in any twelve month period for construction of residential dwellings on any tract of land divided into more than seven (7) lots.

**§ 290-2-5.4. Special Permit.**

More than seven (7) building permits on a tract of land in a twelve month period may be allowed upon the award of a special permit from the Planning Board. The Planning Board may grant a special permit for such permits only where the Board determines that two or more of the following goals are likely to be promoted by the award of a special permit:

- A. the impact of the proposed division of land on schools, recreational facilities, and other public facilities is projected to be less than 50% of that feasible by orthodox development on the parcel; or
- B. the proposed division of land preserves open space, unique natural features, and/or agricultural resources; or
- C. The proposed division of land promotes housing for citizens over the age of fifty-five (55).
- D. The proposed division of land has an extraordinary significance which enhances the Town's historical, cultural, environmental, agricultural and/or recreational character. Examples of possible features would be construction or rehabilitation of playgrounds and/or ballfields, rehabilitation of historic structures or entities, protection of vernal pools, protection of endangered or threatened species, conveyance of public drinking supply, and any other action deemed appropriate by the Carver Planning Board.

**§ 290-2-5.5. Divisions Of Land With More Than 70 Lots.**

Where a tract of land will be divided into more than seventy (70) lots, the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year, in order to permit build-out of the project within a reasonable time.

**§ 290-2-5.6. Extension of Zoning Freeze.**

The protection against subsequent zoning change granted by G.L. c. 40A, s.6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this article, be extended to ten years.

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(Reserved)

## Article 2-7

**TRANSFER OF DEVELOPMENT RIGHTS****§ 290-2-7.1. Purpose and Intent.**

- A. The purpose of this By-law is to allow the development rights from one property (the sending parcel) to be transferred to another property (the receiving parcel) while contemporaneously restricting the sending parcel from future development. The TDR program is consistent with the Carver Master Plan's goals.
- B. The Transfer of Development Rights (TDR) By-law allows for the maintenance of low-density land uses, open spaces, historical features, critical environmental resources, and other sensitive features of the sending parcel to be preserved while providing compensation to the property owner, while also sending development to areas of town with adequate water service and transportation infrastructure for appropriate growth.
- C. The purpose of the sending area is to further the conservation and preservation of natural and undeveloped areas, wildlife, flora, and habitats for endangered species; protection of ground water, surface water, as well as other natural resources; and the preservation of historical, cultural, archaeological, architectural, recreational, community character, and scenic values of Carver. As such, they are areas with one or more of the following attributes: location on a scenic road or vista; aquifer protection land; intact forest areas; significant wildlife habitat as determined through field investigation or designation in datasets like the BioMap2 state dataset or Natural Heritage and Endangered Species program; area in the 100-year Special Flood Hazard Area or 500-year flood hazard area; adjacent to other preserved lands; significant wetland and bog areas; or areas with significant agricultural soils and practices; and areas that can host uses for passive recreation as defined per MGL 301 CMR 5.00.<sup>3</sup>
- D. The purpose the receiving area is to provide opportunity for economic growth; the provision of adequate capital facilities, including transportation, water supply, and solid, sanitary, and hazardous waste disposal facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the development of an adequate supply of affordable housing. As such, they are areas with one or more of the following attributes: connection or potential connection to water service; and proximity and access to arterial transportation routes.

**§ 290-2-7.2. DEFINITIONS.**

**SENDING PARCEL(S)** — Shall mean land from which development rights may be transferred to a receiving parcel(s). Receiving Parcel(s) shall mean land that may receive development rights from a sending parcel(s).

**TRANSFER OF DEVELOPMENT RIGHTS (TDR)** — Shall mean the process by which a development right (house lot) can be severed and transferred from a sending parcel(s) in the mapped designated sending area to a receiving parcel(s) in the mapped designated receiving area.

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3. Editor's Note: So in original; see 301 CMR 5.00.

**§ 290-2-7.3. Applicability.**

The provisions of Article 2-7 shall apply to land identified as follows:

- A. Sending areas. Sending areas are those parcels or portions of parcels categorized as sending area on TDR Overlay Map. Any land that falls within the designated sending area on the map is part of the sending area and eligible to generate sending area development credits as part of the TDR program.
- B. Minimum Sending Area. A sending area must be a minimum of five acres. These five acres can be comprised of multiple adjacent parcels.
- C. Receiving areas. Receiving areas are those parcels or portions of parcels categorized as receiving area on TDR Overlay Map. Any land that falls within the designated receiving area on the map is part of the receiving area and eligible to receiving development credits as part of the TDR program.
- D. The minimum gross area of a receiving area shall be 5 acres, except for:
  - (1) Receiving areas in the village district, and
  - (2) Receiving areas having frontage on Route 58, which have no minimum area.

**§ 290-2-7.4. Permitted Uses on Sending and Receiving Parcels.**

- A. Uses Permitted on Sending Parcels. After development rights have been severed from a sending parcel and transferred to a receiving parcel or into the TDR credit bank, the following uses are the only uses permitted on the parcel:
  - (1) Open space conservation.
  - (2) Passive recreation.
  - (3) Agricultural fields and support structures, with the exception of farmland workforce housing, which is not permitted.
- B. Units Permitted on Receiving Parcels.
  - (1) Certain residential uses, limited to:
    - (a) Townhouse dwellings;
    - (b) Condominium dwellings;
  - (2) Commercial units.
  - (3) Mixed-use buildings with residential and commercial units.
- C. Receiving parcel mixed-use commercial space requirement. In each receiving area development, a minimum of twenty-five percent (25%) and a maximum of sixty six percent (66%) of all new constructed floor area must consist of commercial space. For the purpose of the TDR by-law, commercial space includes office space. This commercial space may be located within a stand-alone building that is fully occupied by commercial uses, or may be located in the same building as residential units. In

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cases where commercial uses and residential uses are located in the same building, commercial units must be located on the ground floor, with residences on the stor(ies) above.

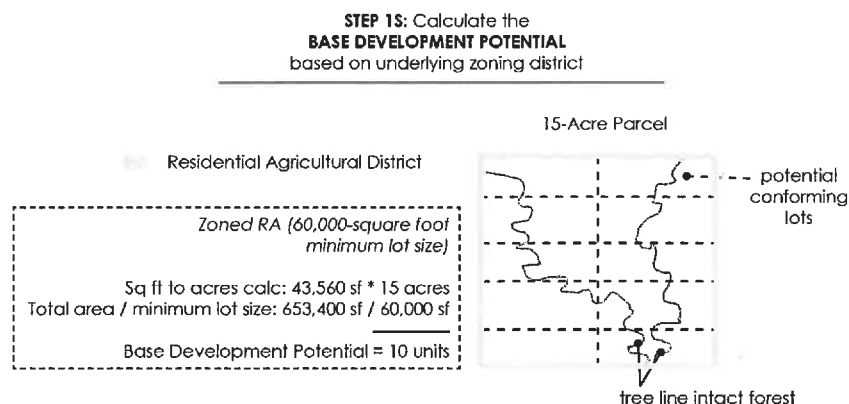
#### § 290-2-7.5. Special Permit Requirement.

- A. Properties within the designated sending and/or receiving areas may either be developed under existing By-laws and regulations or may file for a Transfer of Development Rights (TDR) Special Permit. A TDR Special Permit shall be required for the determination of sending area development rights; and a TDR Special Permit shall be required for the approval of receiving area development plan. The TDR Special Permit requires sending area development potential and receiving area plans to be part of a single application. The Special permit shall require an applicant to follow the steps described below, including the preparation of a preliminary plan submittal for the sending parcel(s) as noted in § 290-2-7.3.
- B. The Planning Board shall be the Special Permit Granting Authority for TDR special permit(s).

#### § 290-2-7.6. Determination of Sending Area Development Credits.

The total amount of development credits generated by a particular sending area parcel is a function of (1) the underlying zoning district density regulations; and (2) the TDR multiplier. To establish the development rights available for transfer, the sending parcel(s)'s owner shall undertake the following steps.

- A. **STEP 1S: Determine the base development potential.** First the parcel(s) owner shall file a preliminary plan for the sending parcel(s) with the Planning Board. The preliminary plan with supporting information as deemed necessary by the Planning Board shall comply with all existing density and dimensional limitations of the base zoning district in effect at the time of application. The preliminary plan for the sending parcel(s) shall also comply with Planning Board's Rules and Regulations without the need for major waivers. The submitted preliminary plan defines the base development rights of the sending parcels by showing the number of units that could be achieved thereon in compliance with the established zoning district in which the parcel(s) are located. Example:

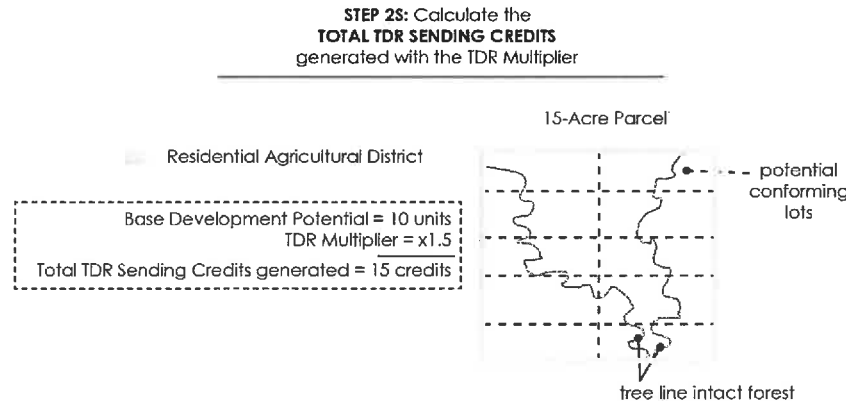


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- B. STEP 2S: Apply the TDR multiplier. The base development rights (number of units) of the sending parcel(s) as established by the Planning Board from the Preliminary Plan shall be multiplied by 1.5, and this increased amount shall be the number of development rights available under a potential TDR application. Fractions of a unit shall be rounded down. For example, if the base development rights equal 10 units,  $10 \times 1.5 = 15$  units available for a TDR application. If the base development rights equal 15 units,  $15 \times 1.5 = 22.5$ , which is rounded down to 22 units.



- C. The Planning Board shall note the importance of the sending parcel in the Sending lot(s) Special Permit decision. The Planning Board shall note the total number of development rights generated by the sending area.

#### § 290-2-7.7. Sending area land preservation requirements.

- A. Any lot or lots from the sending parcel(s) deemed to qualify for a transfer of development rights must, prior to any utilization of transferred development rights on a receiving parcel(s), be permanently and wholly restricted from future development by way of a permanent conservation restriction in accordance with Massachusetts General Law Chapter 184, Section 31-33, as most recently amended, running in favor of the Town or non-profit organization, the principal purpose of which is conservation of open space, or by being donated to the Town of Carver for conservation purposes or by being conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space, and any other purposes set forth by the Planning Board. Draft restriction(s) or donation language on the sending lot(s) shall be submitted to the Planning Board with the application. The Planning Board shall require the restriction or donation language on the sending parcel(s) to be recorded at the Plymouth County Registry of Deeds/Land Court prior to the issuance of any building permit on the receiving parcel(s). On property which will be protected by way of a conservation restriction, a management plan(s) shall be provided to the Planning Board, which describes how existing woods, fields, meadows or other natural areas shall be maintained in accordance with best management practices. Applicants cannot claim a portion of unused development potential on a sending area as a TDR credit. To qualify as a sending area, a parcel must remain wholly in a natural state.

4. Editor's Note: So in original; should be "generated by the sending area."



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- B. All instruments implementing the Transfer of Development Rights shall be recorded in the manner of a deed(s) at the Plymouth County Registry of Deeds for both the sending and, when identified, the receiving parcel(s). The instrument evidencing such TDR's shall specify the map and lot numbers of the sending and receiving parcel(s).
- C. The Carver Town Assessor shall be provided by applicant, all pertinent information required by such Assessor to value, assess and tax the respective parcels at their fair market value as enhanced or diminished by the TDR's. This information shall include both the sending parcel(s) and, when identified, the receiving parcel(s) and shall be obtained from the clerk of the Plymouth County Registry of Deeds.
- D. The record owner of the sending parcel(s) or the receiving parcel(s) shall, within thirty days of the expiration of the appeal period from the special permit decision authorizing TDR's (or within thirty (30) days of the date on which the disposition of any such appeal is filed in the Town Clerk's office), record at the Registry of Deeds the special permit decision. Evidence of said recording shall be transmitted to the Planning Board within twenty (20) days of the recording of the special permit document with the Registry of Deeds. Evidence to the Planning Board shall include the date of recording and the deed book and page at which the recording can be located.
- E. The record owner of the sending parcel(s) shall, prior to the issuance of any building permit for the receiving parcel(s) and only after discussion and written agreement with the Planning Board, record at the Registry of Deeds either: a Conservation Restriction as defined by M.G.L. c. 184 § 31-33, running in favor of the Town or non-profit organization, the principal purpose of which is conservation of open space, prohibiting in perpetuity the construction, placement, or expansion of any new or existing structure or other development on said sending parcel(s); or a transfer of the deed of said sending parcel(s) to a nonprofit organization, the principal purpose of which is conservation of open space, or by being donated to the Town of Carver for conservation purposes. Evidence of said recording shall be transmitted to the Planning Board indicating the date of recording and the deed book and page number at which the recording can be located. The grant of the special permit to transfer development rights shall be expressly conditioned upon evidence of the recordation of such restriction or donation prior to the issuance of any building permit for the receiving parcel.

#### **§ 290-2-7.8. Approval of Receiving Area Development Plan.**

To establish the development potential available on a receiving parcel(s), the owner shall follow the following steps to calculate the receiving area maximum development potential. After calculations are complete, the owner shall submit a development plan(s) for the receiving parcel(s). The development plan shall conform to all regulations applicable in the zoning district in which the receiving area is located, except density and dimensional requirements.

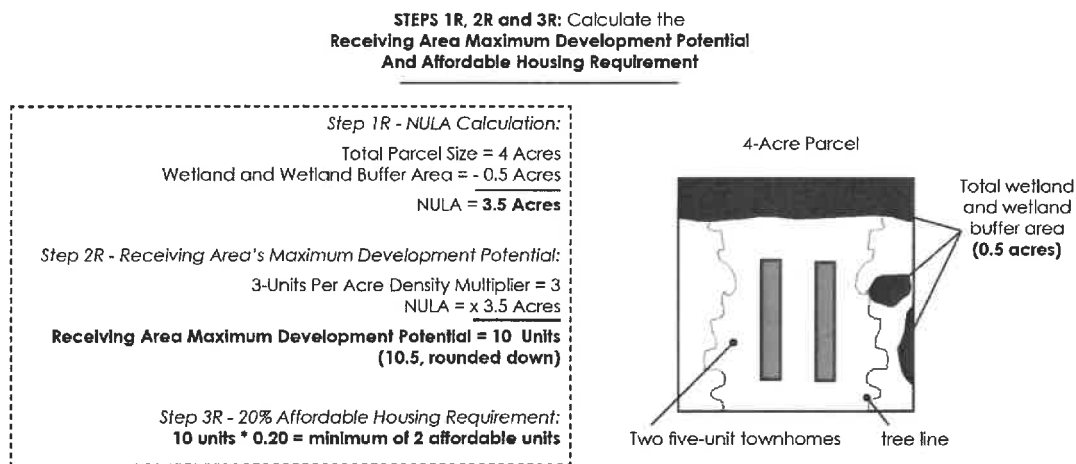
- A. STEP 1R: Establish the Net Usable Land Area. The receiving area's maximum development potential shall be established through a Net Usable Land Area (NULA) Plan for the entire receiving area(s), which shall be submitted to the Planning Board. The NULA is established by subtracting all water bodies, wetlands, marshes, bogs and land within a sixty-five (65) foot wetland buffer area around these regulated lands. The remaining upland area is the NULA.

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- B. STEP 2R: Establish the receiving area's maximum development potential. The receiving area's maximum development potential is equal to three (3) times the NULA. The resultant figure is the number of units that can be developed on the receiving parcel(s). Fractions of a unit shall be rounded down. The total number of units allowed on the receiving parcel is equal to the receiving area maximum development potential calculation, with the exception of bonuses for any Exceptional Housing Need Overage as described below.
- C. STEP 3R: Calculate the Affordable Housing Requirement. For any receiving area development of five or more units, a minimum of 20% of the housing units constructed in a receiving area that generated from the application of TDR credits onto the receiving area shall qualify as affordable housing for low- and moderate-income households as qualified and required per Massachusetts Chapter 40B regulations. Unit calculations are rounded down to the nearest whole number. Example:

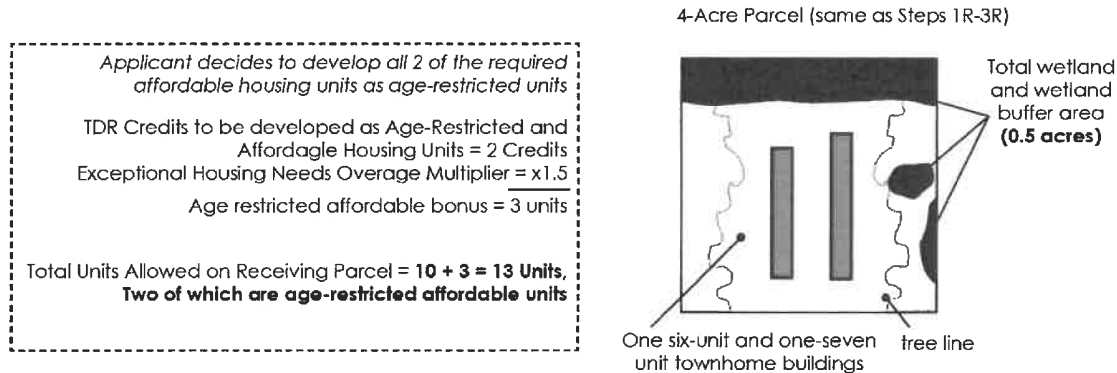


### § 290-2-7.9. Exceptional Housing Needs Overages.

In one instance, it is possible for the total number of units on a receiving area parcel(s) to exceed the receiving area maximum development potential figure. Developments that add to Carver's<sup>s</sup> supply of housing for seniors generate additional development potential overages on a receiving area parcel. Each transferred TDR credit that is to be used in the receiving area for either affordable housing that meets the requirements of Massachusetts Chapter 40B regulations that is also age-restricted housing may be multiplied by 1.5, allowing for additional TDR credit units to be applied and increasing the overall maximum permitted on the receiving parcel(s). Fractions of a unit shall be rounded down. Units constructed as a result of this allowed overage consume TDR sending credits, and cannot be constructed in absence of enough sending credits to cover the additional units. Example:

5. Editor's Note: So in original; should be "Carver's."

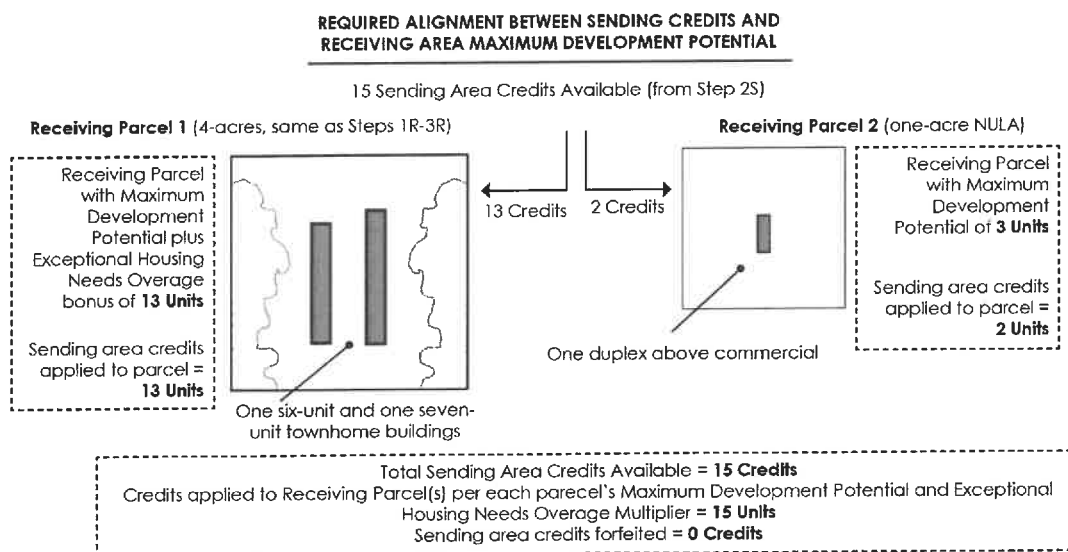
**EXCEPTIONAL HOUSING NEEDS OVERAGE** (optional)  
 Apply **MULTIPLIER FOR AFFORDABLE AND AGE-RESTRICTED**  
**TRANSFER CREDITS (1.5X)**



**§ 290-2-7.10. Development Credits Equalization.**

The calculation of total sending area credits is a separate process from the determination of the maximum number of units that can be placed on a receiving parcel, the process for which is outlined below.

If the number of credits generated by a sending parcel(s) is less than or equal to the maximum number of units that can be placed on a receiving parcel in the current TDR project under review, the sending area credits can be transferred to the receiving parcel in question. If, however, the number of credits generated by a sending parcel exceeds the maximum number of units that can be placed on a receiving parcel in a current TDR project under review, the exceeding number of credits will be forfeited. Multiple receiving parcels can be proposed to accommodate sending area credits, but the maximum development potential calculated must be respected and not exceeded for each receiving parcel that is part of an individual TDR project special permit process. Example:



**§ 290-2-7.11. Dimensional Standards and Parking Requirements.**

- A. The following Dimensional Standards shall apply:
- (1) Frontage: 40'
  - (2) Front Setback: 30' from street layout line or edge of pavement, whichever is less
  - (3) Rear Setback: 25' to property line or edge of pavement (if alley access is used), whichever is less.
  - (4) Side Setback: 25' to property line or edge of pavement (if alley access is used), whichever is less.
  - (5) Route 58 Setback: 40' (notwithstanding the foregoing)
  - (6) Building to Building Setback: One-half (1/2) of the sum of the heights of the buildings, provided that the Fire Chief certifies that there is adequate fire access to all sides of each building.
  - (7) Height: 35' or 3.5 stories (subject, however, to Footnote 8 in § 290-2-3.2)
- B. The Planning Board shall have the authority to negotiate with the applicant to modify the dimensional standards the least amount required in order to ensure that the proposed development can fit on the receiving area parcel so that the receiving area maximum development potential and all allowed unit overages can be accommodated on the receiving parcel.
- C. The Planning Board shall have the authority to modify the number of parking spaces otherwise required by Article 3-3 if one or more of the units are age-restricted.
- D. The Receiving Area Development Plan shall show all existing legal restrictions, easements or limitations on development.
- E. The receiving parcel(s) shall have public water and public septic services available or said services shall be provided privately by the developers part of the TDR special permit development approval. Packaged treatment plans can meet this requirement.

**§ 290-2-7.12. TDR Special Permit Criteria.**

A TDR special permit may be granted by the Planning Board for the receiving parcel(s) upon its written determination that the benefits of the proposed transfer of development rights to the receiving parcel(s) outweigh the detrimental impacts of the development in the receiving area, the surrounding neighborhood, and the Town. The Board shall review and establish the positive finding for each of the following criteria:

- A. The development complies with the Carver Master Plan and Open Space and Recreation Plan;
- B. The development preserves or provides one or more of the following: water source protection land; intact forest areas; significant wildlife habitat as determined through field investigation or designation in datasets like the BioMap2 state dataset or Natural Heritage and Endangered Species program; area in the 100-year Special Flood Hazard

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Area or 500-year flood hazard area; adjacency to other preserved lands; significant wetland areas; significant agricultural soils and practices; or scenic vistas;

- C. The development provides adequate water and sanitary facilities;
- D. The development design is appropriate to the natural topography, soils and other characteristics of the site and to the visual character of its surroundings;
- E. Projected traffic generation from development onto local roads and intersections is within the capacity of the road network and does not create any safety concerns. If deemed necessary by the Planning Board a traffic study and/or mitigation improvements may be required to address capacity, safety and access management issues;
- F. The design and layout of streets, parking and loading of the development is acceptable to the Planning Board.

### **§ 290-2-7.13. Governance.**

Special permit applications and decisions shall be governed by the filing and public hearing requirements set forth in M.G.L. c. 40A, § 9. The Planning Board as S.P.G.A. shall have the ability to adopt rules and regulations governing the granting of special permits following the procedures set forth in MGL c. 40A.

## Article 2-8

### **PLANNED NEIGHBORHOOD DEVELOPMENT (PND) OVERLAY DISTRICT**

#### **§ 290-2-8.1. Purpose.**

- A. The purpose of this Article 2-8 is to authorize and encourage planned neighborhood developments that promote a broad range of housing types and limited small retail/office uses, all centered around areas of usable public open space. Traditional neighborhood developments should incorporate pedestrian, bike, and transit-friendly design. Traditional neighborhood developments should include conditions and safeguards to prevent detrimental effects and impacts upon neighboring land uses and upon the Town of Carver generally.
- B. The PND overlay district further serves as a receiving area for development rights transferred under Article 2-7, Transfer of Development Rights.

#### **§ 290-2-8.2. Applicability.**

The PND is an overlay district superimposed over the underlying zoning district(s). The boundaries of the PND are defined as the area designated "PND" shown on the Zoning Map. The PND district only comes into effect for developments that utilize transfer of development rights (TDR) as described in Article 2-7. The enhanced density, dimensional, and use regulations contained in this article shall only apply to developments that utilize TDR's. Furthermore, there must be a minimum of 50 TDR units transferred into the PND per planned neighborhood development for the enhanced density, dimensional, and use

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regulations of the PND to take effect. Developments that do not utilize TDR's or do not meet the 50 TDR requirements are limited to the density, dimensional, and use regulations of the underlying zoning district(s).

### § 290-2-8.3. Minimum parcel size.

Each planned neighborhood development must contain at least Sixty (60) acres.

### § 290-2-8.4. Use Regulations.

- A. All principle and accessory uses that are allowed in the Village district pursuant to § 290-2-2.3, either by right or special permit, shall be allowed in the PND, subject to the following restrictions:
- (1) All commercial uses (i.e. retail, office, banks, restaurants, etc.) shall have less than 8,000 sq. ft. of gross floor area per establishment;
  - (2) All commercial uses should be two stories and include flexible floor space on the second story to allow for office or residential uses.
- B. In addition, the following uses shall also be allowed in the PND:
- (1) Multi-family dwellings may take the form of apartments and/or Townhouses; Townhouse dwellings may contain up to six (6) dwelling units per building, apartment dwellings may contain up to ten (10) dwelling units per building.
  - (2) Mixed-use buildings may include residential uses accessory to non-residential uses. Other uses include convalescent or nursing home, or assisted elderly housing, health/membership club, intermodal passenger terminal, small (neighborhood) office and/or small (neighborhood) retail.
- C. All PND uses are subject to the dimensional regulations and design standards/requirements of this article.
- D. Prohibited Uses: All principle and accessory uses prohibited in the Village district pursuant to § 290-2-2.3 shall be prohibited in the PND. In addition, drive-in/through facilities shall be prohibited in the PND.
- E. Use mix: Each planned neighborhood development must contain a least three (3) different land uses. For the purposes of this subsection, single-family residential is considered a different land use than multi-family residential; retail is considered a different land use than office, etc. A minimum of 15% of the overall PND acreage as public open space/park is required in all planned neighborhood developments and does not count toward the three required land uses. The maximum percentage of land area allowed per land use category within a planned neighborhood development phase shall be as follows:

USE CATEGORY	Maximum Percentage of a PND Phase, in Acres
Single-family residential	45%

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USE CATEGORY	Maximum Percentage of a PND Phase, in Acres
Multi-family residential, including residential in mixed-use buildings	35%
Community uses (religious, education, municipal)	10%
Commercial uses (retail, office, bank, restaurant, etc.)	10%

- F. The above use regulations apply only to developments that utilize TDR's and meet the 50 TDR requirements. Developments that do not utilize TDR's or do not meet the 50 TDR requirements are limited to the use regulations of the underlying zoning district(s).

**§ 290-2-8.5. Density and Dimensional Regulations:**

- A. Developments that do not utilize TDR's or do not meet the 50 TDR requirements are limited to the dimensional regulations of the underlying zoning district(s). Developments that utilize TDR's and meet the 50 TDR requirements shall conform to the following dimensional requirements:

Planned Neighborhood Development Overlay District	
Minimum Area (1)	7,000 sq. ft.
Minimum Frontage	65 feet
Minimum Depth	75 feet
Minimum Front Setback (2)	10 feet
Maximum Front Setback	20 feet
Minimum Side Setback (2)	10 feet
Minimum Rear Setback (2)	15 feet
Maximum % Building Coverage	55%
Maximum % Lot Coverage	75%
Maximum Height:	
{i1} 1-family or 2-family residential	Two and a half (2.5) stories or 35 ft
{i1} Multi-family residential	Three (3) stories or 40 feet
{i1} Non-residential or mixed-use buildings	Three (3) stories or 40 feet

- For multi-unit residential dwellings, add 2,000 sq. ft. to the minimum lot requirement for each additional unit in addition to the first unit (example: 2 units requires 9,000 sq. ft., 3 units 11,000 sq. ft., etc.). Mixed-use buildings containing residential and non-residential uses are exempted from this requirement.
- Parking and loading spaces shall not be allowed in the setbacks.

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- B. Density Limitation: The maximum density of a planned neighborhood development shall be six (6) units per net usable land area (NULA) acre. The NULA calculation is explained in § 290-2-8.7C.

**§ 290-2-8.6. Design Standards/Requirements.**

- A. Green/Square and other Public Open Spaces. A public green/square shall be required within a PND. The green/square shall be a minimum of one (1) acre in size and shall be designed as a pedestrian friendly park. The green/square shall contain some combination of benches, tables, playground equipment, sidewalks, lighting and landscaping. The green/square shall be easily accessible to pedestrians and shall be properly maintained. The green/square shall be used solely for active and passive recreation purposes and shall be open to the public.
- (1) The green/square should be surrounded by buildings with complementary ground floor uses such as restaurants and cafes (preferably with seasonal outdoor seating), and other businesses that operate in both daytime and evening hours, to create a festive, welcoming, well-populated attraction for pedestrians.
  - (2) Additional public open spaces as needed to meet the 20% open space requirement or the active/passive recreation requirement should be sited throughout the district to serve a variety of purposes, such as commons or greens, walking trails, bikeways, neighborhood pocket parks, community gardens, civic gathering places, and passive and/or active recreation. All public land for active/passive recreation shall be accessible via pedestrian connections and shall be properly maintained. Small-scale "pocket parks" and community gardens are encouraged in all residential areas, particularly adjacent to multi-family dwellings with limited private open space.
  - (3) The total acreage of all public land for active/passive recreation may be used toward calculating the allowable density for one of the nearby land uses within that phase.
- B. Affordable housing: At least fifteen percent (15%) of all dwelling units constructed in a planned mixed-use development shall meet the State's affordable housing requirements for low to moderate income. Fractional units of .5 or greater should be rounded up to the next whole unit; fractional units less than .5 shall be rounded down. It is intended that the affordable housing units that result from this By-law shall qualify as Local Initiative Program (LIP) units in compliance with the requirements for the same as specified by the Department of Housing and Community Development and that said units count toward the Town's requirements under M.G.L. c. 40B, § 20-23. The affordable units shall be marketed through the Carver Housing Authority, South Shore Housing Development Corporation, or other housing organization approved by the Planning Board. The affordable units must be marketed fairly and openly in accordance with state and federal laws. All affordable units shall be initially sold or rented at an affordable price to qualified affordable housing occupants, and resale restrictions will assure continued affordability in perpetuity. Such restrictions shall be made known to the homebuyer or renter prior to the purchase/occupancy of unit.



- (1) In lieu of providing said affordable units on-site, the applicant may satisfy the affordable housing requirement by providing fifteen percent (15%) of the total number of dwelling units as affordable off-site, through the purchase of vacant or abandoned units, redevelopment and/or new construction within the Town.
- (2) Affordable dwelling units shall remain available to persons of qualifying income levels in perpetuity through the use of an affordable housing deed restriction as defined in M.G.L. c. 184 § 31.
- (3) The purchaser of an affordable housing unit developed as result of this By-law shall agree to execute a deed rider prepared by the Town, granting, among other things, the Town's right of first refusal for a period of not less than one hundred eighty (180) days to purchase the property or assignment thereof, in the event a qualified affordable purchaser cannot be located, despite diligent efforts to sell the property.
- (4) All affordable units constructed or rehabilitated under this By-law shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
  - (a) Affordable units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units.
  - (b) Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

Market-Rate Unit %	Affordable Housing Units %
Up to 30%	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

#### C. Parking.

- (1) On-street parking is encouraged throughout the PND overlay district. Parking lanes should be provided on at least one side of the street in predominantly residential areas and on both sides of the street in predominantly mixed use and non-residential areas. On-street spaces along the front property lines of a block shall be designed as either parallel to or diagonal to the curb and be consistent on both sides of the same side of the street within the same block. On-street spaces along the front property line of an individual lot shall be counted toward the minimum number of parking spaces required for the use on that lot.
- (2) Off-street parking as an accessory use shall only be provided at the sides or the rear of a building. Surface parking lots and/or private garages may be provided

for all uses. For multi-family, mixed, and non-residential uses, pedestrian connections shall be provided from all side or rear parking facilities to the front of the building. Where a parking facility is located behind and serves multiple adjacent buildings, pedestrian connections to the street shall be provided between buildings at regular (maximum 400 foot) intervals.

(3) Required Parking Spaces.

- (a) Residential: Two (2) spaces per dwelling unit.
- (b) Residential in Mixed-Use Buildings residential parking may be reduced to One and one-half (1 1/2) spaces.
- (c) Non-Residential Uses: Spaces shall be provided as per the requirements of Article 3-3. A 25% reduction in required spaces may be permitted when the developer provides common parking areas and submits information on peak times by use, confirming that uses are compatible relative to parking demand. On street parking in front of a building may be utilized to help fulfill this requirement. Common parking areas for commercial uses should be within 1,000 feet of business and connected by lighted sidewalks or paths.

D. Pedestrian Access:

- (1) All new streets shall have paved sidewalks to maintain continuous pedestrian connections throughout the PND and to/from adjacent public ways. On streets with mixed and non-residential uses, sidewalks shall be a minimum six (6) feet wide; for residential uses, a minimum four (4) feet wide. Accessible curb cuts shall be provided at all intersections and pedestrian crosswalks.
- (2) Crosswalks are required at all intersections where pedestrian and vehicular traffic are expected to intersect. Crosswalks may be designated by painted lines or changes in paving materials.
- (3) Footpaths/bikeways shall be provided throughout the PND to facilitate pedestrian connections throughout the District, particularly to and from the Village Square/Green, and to and through public open spaces. Footpaths need not be paved, but shall be accessible to the public, well lit, and regularly maintained. Paved footpaths may double as bikeways as long as they meet AASHTO Standards.

E. Building Design:

- (1) The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows should be harmonious among themselves.
- (2) Architectural details of new buildings and additions, and textures of walls and roof materials, should be harmonious with the building's overall architectural style and should preserve and enhance the historic character of Carver.
- (3) Front and sides of the building facades in excess of forty (40) feet shall incorporate recesses and projections, of a minimum of two (2) feet in depth, to break up the building's mass.

## F. Other requirements and standards.

- (1) Public trash receptacles should be provided throughout the mixed-use area and the Village square/green.
- (2) Underground utilities shall be required.
- (3) All mechanical, electrical, communications, and service equipment, including satellite dishes and vent pipes, shall be located out of public view and situated with the intent of causing minimal acoustic intrusion on building occupants and adjacent uses. Visual screening or acoustic buffering may be required, by means of parapets, walls, fences, dense evergreen foliage, or other suitable means.
- (4) All other applicable design regulations of this By-law, including but not limited to landscaping, lighting, and signage, shall apply to Planned Mixed-use Developments. If the design standards/requirements of this section conflict with another section of the By-law, the standards/requirements of this section shall apply.

**§ 290-2-8.7. Procedures.**

All Planned Neighborhood Developments are subject to a Special Permit. The Planning Board is hereby designated as the Special Permit Granting Authority (SPGA) for a PND special permit.

- A. Pre-application Meeting and Preliminary PND Concept Plan; A pre-application meeting between the applicant and the Town Planner is strongly encouraged. The purpose of the pre-application meeting is to identify issues relating to the proposed PND. At this pre-application meeting, applicants are encouraged to submit a Preliminary PND Concept Plan for review and comments by the Planning Board. A Preliminary PND Concept Plan shall consist of a sketch plan showing the layout, lotting, and number of units of all proposed land uses, as well as the location of all public open space and road networks. The sketch plan should show the proposed PND in a general or schematic way. The applicant is further encouraged to submit several alternative sketch plans where appropriate.
- B. Planned Neighborhood Development Plan: Applicants for a Planned Neighborhood Development shall submit to the Planning Board an application for a special permit and ten (10) copies of a Planned Neighborhood Development Plan in such form as may be required in the Planning Board's Rules and Regulations governing Planned Neighborhood Development Special Permits. Applicants shall also submit a Net Usable Land Area plan as described in § 290-2-8.7C and an application for Site Plan Approval under Article 3-1. Applicants shall include a statement indicating the number and types of dwelling units, as well as the proposed use and ownership of all open space. Applicants shall also submit a mitigation plan for the Planned Neighborhood Development. The mitigation plan should include any needed or required offsite improvements to roads or other infrastructure.
- C. Net Usable Land Area Plan: The base density of the tract under consideration for a Planned Neighborhood Development shall be established by having a Net Usable Land Area (NULA) plan submitted to the Planning Board. The NULA acreage is established

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by subtracting all water bodies, wetlands, marshes, bogs and land within a sixty-five (65) foot wetland buffer area to these regulated lands. The remaining upland area is the NULA. The NULA divided by the minimum lot size in the underlying zoning district equals the base number of units that could be developed on the tract. Fractions of a unit shall be rounded down. The base density may be increased by adding TDR's up to the 6 units per NULA acre cap stipulated in § 290-2-8.5B. The applicant shall demonstrate how the proposed density can be achieved by a combination of base density and available TDRs.

- D. The Planning Board shall follow the procedural requirements for special permits as set forth in Section 9 of M.G.L. Chapter 40A. After notice and public hearing and after due consideration of the reports and recommendations of other Town boards, commissions and or departments, the Planning Board may grant such a permit. The Planning Board shall also impose, in addition to any applicable conditions specified in this section, such conditions as it finds reasonably appropriate to improve the site design or mitigate the impacts of the proposed development. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Planning Board.

#### **§ 290-2-8.8. Criteria for Review and Approval.**

PND special permits may be granted by the Planning Board upon its written determination that benefits of the proposed planned mixed-use development or phase thereof outweigh the detrimental impacts of the development in the PND overlay district and on the Town. The SPGA shall review and make all determinations on the application. In order to approve, the SPGA shall also make a positive finding on each of the following criteria:

- A. The resulting development complies with the currently accepted versions of the Master Plan and the Open Space and Recreation Plan.
- B. The mixed-use design provides a superior pedestrian friendly neighborhood.
- C. The resulting development meets the design standards/requirements of § 290-2-8.6.
- D. The resulting development provides adequate water and wastewater that meet Title V<sup>6</sup> and Board of Health requirements.
- E. The development will not create a greater demand on public facilities and services than would have occurred in the absence of a PND special permit, or such increases have been adequately mitigated.
- F. The projected traffic generation from the development onto local roads and intersections is within the capacity of the existing local and regional road network and adequately adheres to acceptable principles of access management. If deemed necessary by the Planning Board, traffic mitigation improvements may be required to address capacity, safety and access management issues.

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6. Editor's Note: See 310 CMR 15.00.

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- G. The design and layout of streets, parking and loading of the development is suitable to the property and surrounding neighborhood, creates a network of interconnecting, pedestrian-oriented streets, and is acceptable to the Planning Board.

## Article 2-9

**BED AND BREAKFAST****§ 290-2-9.1. Purpose.**

The purpose of this article is to protect the safety, public health, convenience and general welfare of the inhabitants of the Town of Carver by providing detailed review of the design and layout of Bed and Breakfast facilities, which have a substantial impact upon the character of the Town of Carver and upon adjacent properties, utilities and services therein.

**§ 290-2-9.2. Powers and Administrative Procedures.**

- A. A Special Permit may be granted for a bed and breakfast. Such Special Permit granted shall be valid for one year from the date of issuance. Such Special Permit may be renewed, provided however, the premises are first inspected by the Building Commissioner and found to be in compliance with the above stated requirements and any other applicable ordinances, rules, regulations, laws or restrictions.
- B. The Planning Board may issue the permit for a Bed and Breakfast upon such conditions and limitations as are consistent with the zoning ordinance. In addition to such conditions and limitations, the permit for a bed and breakfast shall contain the following information:
- (1) number of rooms to be rented;
  - (2) signage requirements;
  - (3) off-street parking requirements;
  - (4) statement that only breakfasts and dinner may be served on the premises.
- C. The Bed and Breakfast may be specially permitted where the Planning Board determines that:
- (1) The building to be used for the Bed and Breakfast is a single family residence, except that if the building is listed on the historic inventory, the Carver Historic Commission, and Carver Historic District Commission for the Town of Carver must offer a recommendation on the intended use.
  - (2) There shall be no significant alteration of the buildings exterior. This shall not include safety or general maintenance measures such as painting, etc.
  - (3) Off-street parking will be screened from adjacent properties. No additional parking will be allowed within front yard setbacks. Pre-existing parking on the site is exempt from this by law.

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- (4) The only meals that may be provided to guests shall be breakfast and dinner, and it would only be served to guests taking lodging at the facility.
- (5) Information and literature describing activities and cultural and historical events and landmarks in the Town of Carver shall be prominently displayed for the benefit of guests.
- (6) Trash/waste containers are to be enclosed and secured from entry and screened.

### Part 3 GENERAL REGULATIONS

#### Article 3-0 INCLUSIONARY ZONING

##### § 290-3-0.1. Purposes.

The purposes of this article are to promote the public health, safety, and welfare by encouraging diversity of housing opportunities in the Town; to provide for a full range of housing choices throughout the Town for households of all incomes, ages, and sizes in order to meet the Town's goal of preserving its character and diversity; to mitigate the impact of residential development on the availability and cost of housing, especially housing affordable to low and moderate income households; to increase the production of affordable housing units to meet existing and anticipated housing needs within the Town; to provide a mechanism by which residential development can contribute directly to increasing the supply of affordable housing in exchange for a greater density of development than that which is permitted as a matter of right; and to establish requirements, standards, and guidelines for the use of such contributions generated from the application of inclusionary housing provisions.

##### § 290-3-0.2. Definitions.

**ELIGIBLE HOUSEHOLD** — shall mean: For rental housing, any household whose total income does not exceed 80 percent of the median income for households in the Massachusetts Department of Housing and Community Development (DHCD) designated statistical area that includes the Town at the time of rental of Inclusionary Units and adjusted for household size; and in the case of for-sale housing, any household whose total income does not exceed 120 percent of the median income for households in the DHCD designated statistical area that includes the Town at the time of marketing of Inclusionary Units and adjusted for household size, which is defined as the number of bedrooms plus one.

**HOUSING TRUST** — the Carver Municipal Affordable Housing Trust Fund, as established by the Town for the purpose of creating and preserving affordable housing in the Town, pursuant to M.G.L. Chapter 40 § 55C.<sup>7</sup>

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<sup>7</sup> Editor's Note: So in original. See MGL c. 44, § 55C.

INCLUSIONARY UNIT(S) — shall mean any finished dwelling unit required to be for sale or rental under this article of the zoning ordinance.

- A. For Inclusionary Units that are rented to Eligible Households, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the monthly income of an Eligible Household, assuming 1.5 persons per bedroom, except in the event of an Eligible Household with a Section 8 or other rent subsidy voucher in which case the rent and income limits established by the Housing Authority, with the approval of the DHCD, shall apply.
- B. For Inclusionary Units that are sold to Eligible Households, the sales price of an Inclusionary Unit shall be affordable to a household earning 70 percent of the median income for households in the DHCD designated statistical area that includes the Town at the time of marketing of the Inclusionary Unit and adjusted for household size. The sales price shall then be determined from a calculation which limits the monthly housing payment for mortgage principal and interest, private mortgage insurance, property taxes, condominium or homeowner's association fees, insurance, and parking to not more than 30 percent of the monthly income of an appropriately sized household at the time of marketing of the Inclusionary Unit.
- C. Where fewer than three Inclusionary Units are provided in a development under this article Inclusionary Units required to be offered for sale shall be provided to Eligible Households with median incomes of not more than 80 percent of the median income for households in the DHCD designated statistical area that includes the Town at the time of marketing of Inclusionary Units and adjusted for household size.
- D. Where three or more Inclusionary Units are provided in a development under this article, two-thirds of the Inclusionary Units required to be offered for sale shall be provided to Eligible Households with median incomes of not more than 80 percent of the median income for households in the DHCD designated statistical area that includes the Town at the time of marketing of Inclusionary Units and adjusted for household size. One-third of the Inclusionary Units required to be offered for sale shall be provided to Eligible Households with median incomes of not more than 120 percent of the median income for households in the DHCD designated statistical area that includes the Town at the time of marketing of Inclusionary Units and adjusted for household size.
- E. Where two or more Inclusionary Units are provided in a development under this article, Inclusionary Units required to be offered for rental shall be provided to Eligible Households such that the mean income of Eligible Households in the development does not exceed 65 percent of the median income for households in the DHCD designated statistical area that includes the Town at the time of rental of Inclusionary Units and adjusted for household size. Where one Inclusionary Unit is provided in a development under this article, the Inclusionary Units required to be offered for rental shall be provided to an Eligible Household with a median income of not more than 80 percent of the median income for households in the DHCD designated statistical area that

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includes the Town at the time of rental of Inclusionary Units and adjusted for household size.

**§ 290-3-0.3. Scope; Monitoring.**

- A. Where a special permit is required under these Ordinances for residential development or for a business or mixed-use development that includes residential development beyond that allowable as of right or where the development is proposed to include or may include new or additional dwelling units totaling more than two households whether by new construction, rehabilitation, conversion of a building or structure, or an open space preservation development, the development shall be subject to the inclusionary zoning provisions of this article. This inclusionary zoning article does not apply to accessory units or hotel/motel units.
- B. Inclusionary units created under these bylaws shall be monitored by a responsible agency such as the Carver Housing Authority or another entity as designated by the Planning Board.

**§ 290-3-0.4. Inclusionary Units; Bonus Units.**

- A. Where a special permit is required for development as described in this article, 15 percent of the units proposed for the development shall be Inclusionary Units and shall be reserved for sale or rental to Eligible Households. In the case of an existing residential property the inclusionary requirement shall be 15 percent of the net new units to be created on the property. For purposes of calculating the number of Inclusionary Units required in a proposed development, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.
- B. In order to mitigate the costs of this requirement, developments covered by this article, excepting conventional subdivisions, shall be allowed a bonus of one Market Rate unit of the same bedroom size for each Inclusionary Unit provided.
- C. At the discretion of the Applicant, a development may include more than 15 percent of its units as Inclusionary Units. Inclusionary Units shall be offered for sale or rental in the same proportion of the total units as the offer for sale or rental of Market Rate units in the development.
- D. To facilitate the objectives of this article, modifications to the dimensional requirements in any zoning district shall be permitted as of right for an Inclusionary Project, as set forth below:
  - (1) The minimum lot area per dwelling unit normally required in the applicable zoning district shall be reduced by that amount necessary to permit up to one additional unit on the lot for each Inclusionary Unit required.
  - (2) There shall be no bonus units provided for a conventional subdivision.



**§ 290-3-0.5. Cash Payment.**

Where the total number of dwelling units proposed in the development will not exceed six units, the Applicant may make a cash payment equal to 1.5 percent of the sales price at closing of each unit as verified by the Planning Department or if rental housing, the cash payment shall be equal to 1.5 percent of the estimated, assessed value of each unit as determined by the Town Assessor, in lieu of Inclusionary Units as provided in this article. Certificates of Occupancy for the property shall not be issued until the cash payment has been made as verified by the Planning Department. This payment shall be made to the Housing Trust and shall be used exclusively for construction, purchase, or rehabilitation of housing for Eligible Households. The Treasurer-Collector shall annually review payments to the fund and use of the proceeds and shall certify to the Select Board that proceeds have been used for the purposes stated herein.

**§ 290-3-0.6. Off-Site Development.**

- A. Where an Applicant has entered into a development agreement with a non-profit housing development organization, Inclusionary Units otherwise required to be constructed onsite and within the development may be constructed or rehabilitated off site, the Applicant and the non-profit housing development organization must submit a development plan for off-site development for review and comment by the Planning Department prior to submission to the Planning Board. The plan must include at a minimum, demonstration of site control, necessary financing in place to complete the off-site development or rehabilitation, an architect's conceptual site plan with unit designs and architectural elevations, and agreement that the off-site units will comply with this bylaw.
- B. As a condition of granting a special permit for the Applicant's development, the Planning Board shall require that off-site Inclusionary Units shall be completed no later than completion of the Applicant's Market Rate Units. If the off-site Inclusionary Units are not completed as required within that time, temporary and final occupancy permits shall not be granted for the number of Market Rate Units equal to the number of off-site Inclusionary Units which have not been completed.
- C. Where the Planning Board determines that completion of off-site Inclusionary Units has been delayed for extraordinary reasons beyond the reasonable control of the Applicant and non-profit housing developer, the Planning Board may, in its discretion, permit the Applicant to post a monetary bond and release one or more Market Rate Units. The amount of the bond shall be sufficient in the determination of the Planning Department to assure completion of the off-site Inclusionary Units.

**§ 290-3-0.7. Design and Construction.**

In all cases, Inclusionary Units shall be fully built out and finished dwelling units. Inclusionary Units provided on site must be dispersed throughout the development and must be sited in no less desirable locations than the Market Rate Units and have exteriors that are

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indistinguishable in design and of equivalent materials to the exteriors of Market Rate Units in the development, and satisfy the following conditions:

- A. Inclusionary Units shall have habitable space of not less than 650 square feet for a one bedroom unit and an additional 300 square feet for each additional bedroom or 60 percent of the average square footage of the Market Rate Units with the same number of bedrooms, whichever is greater; provided that Inclusionary Units shall not exceed 2,000 square feet of habitable space;
- B. The bedroom mix of inclusionary units shall be equal to the bedroom mix of the Market Rate Units in the development. In the event that Market Rate Units are not finished with defined bedrooms, all Inclusionary Units shall have three bedrooms;
- C. The materials used and the quality of construction for Inclusionary Units, including heating, ventilation, and air conditioning systems, shall be equal to that of the Market Rate Units in the development, as reviewed by the Planning Department; provided that amenities such as so-called designer or high end appliances and fixtures need not be provided for Inclusionary Units.

#### **§ 290-3-0.8. Habitable Space Requirements.**

The total habitable space of Inclusionary Units in a proposed development shall not be less than 10 percent of the sum of the total habitable space of all Market Rate Units and all Inclusionary Units in the proposed development. As part of the application for a special permit under this article, the Applicant shall submit a proposal including the calculation of habitable space for all Market Rate and Inclusionary Units to the Planning Department for its review and certification of compliance with this article as a condition to the grant of a special permit.

#### **§ 290-3-0.9. Inclusionary Housing Plans and Covenants.**

As part of the application for a special permit under this article, the Applicant shall submit an inclusionary housing plan that shall be reviewed by the Housing Authority and the Planning Department and certified as compliant by the Planning Department. The plan shall include the following provisions:

- A. A description of the Inclusionary Units including at a minimum, floor plans indicating the location of the Inclusionary Units, number of bedrooms per unit for all units in the development, square footage of each unit in the development, amenities to be provided, projected sales prices or rent levels for all units in the development, and an outline of construction specifications certified by the Applicant;
- B. A marketing and resident selection plan which includes an affirmative fair housing marketing program, including public notice and a disinterested resident selection process; provided that in the case of a marketing and selection for sale of Inclusionary Units to Eligible Households, the marketing and selection plan shall provide for "income blind" selection of Eligible Households and shall then provide for a preference order, to the extent permitted bylaw, first to Town employees and then to residents of or workers in the Town. In lieu of submitting a marketing and resident selection plan

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under this subsection, the Applicant may use a standard form marketing and resident selection plan developed by the Planning Department.

- C. Agreement by the Applicant that residents shall be selected at both initial sale and rental and all subsequent sales and rentals from listings of Eligible Households in accordance with the approved marketing and resident selection plan; provided that the listing of Eligible Households for inclusionary rental units shall be developed, advertised, and maintained by the Housing Authority while the listing of Eligible Households for Inclusionary Units to be sold shall be developed, advertised, and maintained by the Planning Department; and provided further that the Applicant shall pay the reasonable cost to develop, advertise, and maintain the listings of Eligible Households.
- D. Agreement by the Applicant to develop, advertise, and provide a supplemental listing of Eligible Households to be used to the extent that Inclusionary Units are not fully subscribed from the Housing Authority or the Planning Department listings of Eligible Households;
- E. Agreement that any special permit issued under this article shall require the Applicant to execute and record a covenant in the Registry of Deeds or the Land Court Registry of Deeds for the County as the senior interest in title for each Inclusionary Unit and enduring for the life of the residential development, as follows:
  - (1) For purchase units, a covenant to be filed at the time of conveyance and running in favor of the Town, in a form approved by the Town Counsel, which shall limit initial sale and subsequent re-sales of Inclusionary Units to Eligible Households in accordance with provisions reviewed and approved by the Planning Department which incorporate appropriate sections of this ordinance;
  - (2) For rental units, a covenant to be filed prior to grant of an occupancy permit and running in favor of the Town, in a form approved by the Town Counsel, which shall limit rental of Inclusionary Units to Eligible Households in accordance with provisions reviewed and approved by the Housing Authority which incorporate appropriate sections of this bylaw.

#### **§ 290-3-0.10. Public Funding Limitation.**

The intent of this article is that an Applicant is not to use public funds to construct Inclusionary Units required under this article; this provision however, is not intended to discourage the use of public funds to generate a greater number of affordable units than are otherwise required by this article. If the Applicant is a non-profit housing development organization and proposes housing at least 50 percent of which is affordable to Eligible Households, it is exempt from this limitation.

#### **§ 290-3-0.11. Elder Housing with Services.**

In order to provide affordable elder housing with services on-site, the following requirements shall apply exclusively when an Applicant seeks a special permit for housing with services designed primarily for elders such as residential care, congregate care, independent living, assisted living, and continuing care retirement communities. The services to be provided shall

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be an integral part of the annual rent or occupancy related fee, shall be offered to all residents and may include in substantial measure long term health care and may include nursing, home health care, personal care, meals, transportation, convenience services, and social, cultural, and education programs. This section shall not apply to a nursing facility subject to certificate of need programs regulated by the Commonwealth of Massachusetts Department of Public Health or to developments funded under a state or federal program which requires a greater number of elder units or nursing beds than required here.

- A. **Maximum Contribution:** The Applicant shall contribute 2.5 percent of annual gross revenue from fees or charges for housing and all services, if it is a rental development or an equivalent economic value in the case of a non rental development. The amount of the contribution shall be determined by the Director of Planning, based on analysis of verified financial statements and associated data provided by the Applicant as well as other data the Director may deem relevant.
- B. **Determination:** The Planning Board shall determine, in its discretion, whether the contribution shall be residential units or beds or a cash payment after review of the recommendation of the Director of Planning. In considering the number of units or beds, the Director may consider the level of services, government and private funding or support for housing and services, and the ability of low and moderate income individuals to contribute fees. The Applicant shall provide financial information requested by the Director. If the petitioner or Applicant is making a cash contribution, the contribution shall be deposited in accordance with this section.
- C. **Contributed Units or Beds:** Contributed units or beds shall be made available to individuals and households whose incomes do not exceed 80 percent of the applicable median income for elders in the Municipal Statistical Area, adjusted for household size.
- D. **Selection:** The Applicant or manager shall select residents from a listing of eligible persons and households developed, advertised, and maintained by the Housing Authority; provided that the Applicant shall pay the reasonable costs of the Housing Authority to develop, advertise, and maintain the listing of eligible persons and households. Should the Applicant or manager be unable to fully subscribe the elder housing with candidates from the Housing Authority listing, the Applicant or manager shall recruit eligible persons and households through an outreach program approved by the Director of Planning. The Applicant or manager shall certify its compliance with this subsection annually in a form and with such information as is required by the Director of Planning. To the extent permitted bylaw, residents shall have first opportunity to participate in the elder housing with services program set out here.
- E. **Residential Cash Balances:** If, after calculation of the number of units or beds to be contributed under this section there remains an annual cash balance to be contributed, that amount shall be contributed as set out in Subsection B above. Any such contribution shall not reduce the contribution required in future years.

#### **§ 290-3-0.12. Hotels.**

Rooms that are provided for a daily fee with an on-site office and management shall not be considered as residential development and are therefore not covered by this article.

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**§ 290-3-0.13. No Effect on Accessory Apartments.**

This article shall not apply to accessory apartments regulated under this ordinance.

**§ 290-3-0.14. No Effect on Prior or Existing Obligations.**

This article shall have no effect on any prior or currently effective special permit, obligation, contract, agreement, covenant or arrangement of any kind, executed or required to be executed, which provides for dwelling units to be made available for sale or rental to or by the Town, the Housing Authority, or other appropriate municipal agency, or any cash payment so required for affordable housing purposes, all resulting from a project permitted under this article applied for or granted prior to the effective date of this amendment.

**§ 290-3-0.15. Segmentation.**

An Applicant for residential development shall not segment or divide or subdivide or establish surrogate or subsidiary entities to avoid the requirements of this article. Where the Select Board determines that this provision has been violated, the application will be denied. However, nothing herein prohibits phased development of a property, with the Inclusionary Units being provided proportionately in each phase of the project.

**§ 290-3-0.16. Severability, Effect on Other Laws.**

The provisions of this article are severable. If any subsection, provision, or portion of this article is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this article shall continue to be valid.

## Article 3-1

**SITE PLAN REVIEW****§ 290-3-1.1. Applicability.**

- A. The following types of activities and uses require site plan review by the Planning Board:
  - (1) Construction, exterior alteration or exterior expansion or change of use of a municipal, institutional, commercial, industrial, or multi-family structure;
  - (2) Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure;
  - (3) Grading, clearing, or other land development activity except for the following: work in an Agricultural-Residential District, landscaping on a lot with an existing dwelling, clearing necessary for percolation and other site tests, work incidental to agricultural activity, or work in conjunction with a approved subdivision plan or earth removal permit.
- B. At the request of the applicant, the Planning Board may waive any or all requirements of site plan review for exterior enlargements of less than 25% of the existing floor area,

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and for building or site alterations where the Board determines that the standards set forth in this bylaw are not relevant to the alterations.

- C. Upon written request of the applicant, the Planning Board may waive any of the submittal requirements set forth in Article 3-1 deemed by the Planning Board to be not necessary for its review of the application. In addition, the Planning Board may waive other such requirements of this Article 3-1, including the requirement for a public hearing, where the Planning Board determines that the project constitutes a minor site plan. In order to constitute a minor site plan, the proposed work must be limited to (a) construction that does not exceed a total gross floor area of two thousand (2,000) square feet, (b) construction that will not generate the need for more than ten (10) total number of parking spaces, and/or (c) modifications to the site which, in the Planning Board's determination, do not materially or adversely affect conditions governed by the site plan review standards set forth in § 290-3-1.6 below.

### **§ 290-3-1.2. Procedures.**

- A. Applicants are encouraged to meet with the Planning Board prior to making a formal submission of plans to discuss site plan requirements and possible waivers. The board may provide a set of guidelines to assist applicants in meeting site plan, architectural, and landscaping objectives.
- B. An application for a building permit to perform work as set forth in § 290-3-1.1A(1) shall be accompanied by an approved site plan. Prior to the commencement of any activity set forth in § 290-3-1.1A(2) or (3), the project proponent shall obtain site plan approval from the Planning Board. Applicants for site plan approval shall submit ten (10) copies of the site plan to the Planning Board at a regularly scheduled meeting, and within three (3) days thereafter shall submit a copy to the Town Clerk for filing. The Planning Board shall, within seven (7) days of receipt, transmit copies to the Building Inspector, the Police Chief, the Fire Chief, the Emergency Medical Service, the Town Treasurer, the Conservation Commission, and the Select Board for their advisory review and comments. Said boards shall have fourteen (14) days from the receipt of the site plan to make a written recommendation to the Planning Board. The Planning Board shall hold a public hearing to consider the plan in accordance with the requirements of M.G.L. 40A, s. 11.
- C. For site plan review of a use or structure available by right, the Planning Board shall review and act upon the plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing.
- D. Uses or structures available by special permit.
  - (1) For site plan review of a use or structure available by special permit where the Planning Board serves as the special permit granting authority, the board shall consolidate the site plan review into the special permit procedures and the timetable for decision shall conform thereto.

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- (2) For site plan review of a use or structure available by special permit in a Chapter 43D Priority Development Site where the Planning Board serves as the special permit granting authority, the board shall consolidate the site plan review into the special permit procedures and timetable. Final action shall be taken within 180 calendar days after the certified notice of completeness is sent, or the 20-day-completeness review period has expired and the application is deemed to be complete.
- E. Failure of the board to take final action upon the plan within the allotted time shall be construed as approval unless an extension has been agreed upon by the applicant and the board.

### **§ 290-3-1.3. Submittals.**

- A. Plans subject to this article shall show:
  - (1) All boundary line information pertaining to the land sufficient to permit location of same on ground with existing and proposed topography at 2 foot contour intervals and the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding and unique natural features;
  - (2) Existing and proposed buildings and structures, including fences, loading areas, accessory buildings, signs, rubbish disposal areas, and storage areas, with proposed building elevations or renderings; utilities and snow disposal methods.
  - (3) Water provision, including fire protection measures;
  - (4) Sanitary sewerage;
  - (5) Storm drainage, including means of ultimate disposal and calculations to support maintenance of the requirements in the Planning Board's Subdivision Rules and Regulations;
  - (6) Parking, walkways, driveways, and other access and egress provisions;
  - (7) Existing trees 10" caliper or better and existing tree/shrub masses; proposed planting, landscaping, and screening;
  - (8) Existing and proposed exterior lighting;
  - (9) Compliance with all applicable provisions of this Zoning By-Law;
  - (10) Certified list of abutters;
  - (11) Sign permit application, where new signage is proposed;
  - (12) Application fees and inspection fees, as set forth in the Site Plan Rules and Regulations of the Planning Board.
- B. The Planning Board may require narrative assessments of the on-site and off-site impacts of the proposed project, including traffic, drainage, noise, and other environmental factors. The Planning Board may require that such narrative assessments be prepared by qualified experts.

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- C. Failure by the applicant to submit any of the required materials may constitute grounds for denial of the site plan application.

#### **§ 290-3-1.4. Preparation of Plan.**

Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1" = 40'.

#### **§ 290-3-1.5. Waiver of Technical Compliance.**

The Planning Board may, upon written request of the applicant, waive any of the technical requirements of § 290-3-1.3 or 290-3-1.4 where the project involves relatively simple development plans.

#### **§ 290-3-1.6. Performance Standards.**

Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the requirements found in Article 4-2: Utilities. New building construction or other site alteration shall be designed so as to:

- A. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
- B. Maximize pedestrian and vehicular safety both on the site and egressing from it;
- C. Minimize obstruction of scenic views from publicly accessible locations;
- D. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- E. Minimize glare from headlights through plantings or other screening;
- F. Minimize lighting intrusion through use of such devices as cut-off luminaires confining direct rays to the site, with fixture mounting not higher than 11 feet in pedestrian areas; and 15 feet in parking lots, except as otherwise provided under § 290-3-3.4G.
- G. Minimize unreasonable departure from the character and scale of building in the vicinity, as viewed from public ways. The front building facade facing a street shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, detailing and contrasting shapes is required. Not more than 50 feet of a building front shall be in the same vertical plane. A main business entrance to each ground floor business, identified by the larger doors, signs, canopy or similar means of highlighting, shall be located in the front of the building. Building fronts shall contain windows covering at least 15% of the facade's surface. Windows shall be highlighted with



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frames, lintels and sills or equivalent frame features. Windows and doors shall be arranged to give the facade a sense of balance and symmetry.

- H. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances; in accordance with Article 4-3, Water Resource Protection.
- I. Comply with all applicable provisions of this Zoning By-law and other Town regulations, including but not limited to, Article 3-2, General Landscaping Requirements, and Article 3-3, Townwide Parking and Loading Requirements.

**§ 290-3-1.7. Approval. [Amended 4-11-2023 ATM by Art. 32]**

Site plan approval shall be granted upon determination of the board that the requirements of this Article 3-1, Site Plan Review, and all other applicable requirements have been satisfied. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to ensure that the performance standards are met. Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

**§ 290-3-1.8. Compliance.**

No final occupancy permit shall be issued until the Planning Board notifies the Building Inspector in writing that the project has been completed in compliance with the site plan and its conditions. Where final landscaping cannot be completed because of weather conditions, the Building Inspector may issue a temporary occupancy permit, or the Planning Board may require a surety until the work is complete.

**§ 290-3-1.9. Regulations.**

The Planning Board may adopt and from time to time amend reasonable regulations for the administration of the Site Plan guidelines

Article 3-2

**GENERAL LANDSCAPING REQUIREMENTS**

**§ 290-3-2.1. Purpose.**

This Article 3-2 is designed to accomplish the following objectives:

- A. To provide a suitable boundary or buffer between residential uses and districts and nearby nonresidential uses;
- B. To define the street edge and provide visual connection between nonresidential uses of different architectural styles;
- C. To separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare

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from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of signs, unsightly buildings or parking lots;

- D. To provide visual relief to parking lots and protection from wind in open areas;
- E. To preserve or improve the visual and environmental character of Carver, as generally viewed from residential or publicly accessible locations; and
- F. To offer property owners protection against diminution of property values due to adjacent nonresidential use.

### § 290-3-2.2. Applicability.

The requirements of this article shall apply to any nonresidential use and any multi-family dwelling of three (3) or more units.

### § 290-3-2.3. Landscaping Requirements Along Roadways and Property Lines:

- A. **Roadways/Front Property Lines:** The roadway/front property line landscaped buffer is intended to contribute to the creation of tree-lined roadways and shall create a strong impression of separation between the street and the developed area of the site without necessarily eliminating visual contact between them. Planted buffer areas shall be established adjacent to any public road, and shall be continuous except for approved access ways. The roadway/front property line shall have shade trees planted at least every thirty-five (35) feet along the roadway. Planted buffer areas along roadways/front property lines shall be of the following minimum depth in each district, as measured from the layout of the roadway:

IA or B	HC	GB	V
30 feet	20 feet	20 feet	10 feet

- B. **Side and Rear Property Lines.** Side and rear property line landscaped buffers are intended to promote proper visual separation and adequate buffering between adjoining properties. Planted buffer areas along side and rear property lines shall be of the following minimum depth in each district:

IA or B	HC	GB	V
20 feet	10 feet	10 feet	0 feet

- C. **Property lines bordering residential uses.**

- (1) Wherever a nonresidential use or multi-family dwelling is located on a lot which abuts or is across a street from land developed or zoned for residential use, a landscaped buffer shall be provided and maintained on the nonresidential/multi-family lot along the bordering lot line in order to minimize the visual effect of all the nonresidential/multi-family use on the adjacent land. Planted buffer areas along property lines bordering residential districts or uses shall be of the following minimum depth in each district:

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1A or B	HC	GB	V
100 feet	50 feet	50 feet	10 feet

- (2) The bordering residential buffer shall supercede the applicable front, side or rear property line buffer required by § 290-3-2.3A and B.

**§ 290-3-2.4. Landscaping Requirements for Parking Areas:**

- A. Parking lot interior landscaping: Interior parking lot landscaping shall provide visual and climatic relief from broad expanses of pavement and shall be designed to define logical areas for pedestrian and vehicular circulation and to channel such movement on and off the site. Parking areas with more than 10 spaces shall contain 150 square feet of planted areas for every 1000 square feet of parking proposed, appropriately situated within the parking area. All interior parking lot landscaping shall occur in landscaped islands containing at least 150 square feet of unpaved area and measuring at least 10 feet across. A landscaped island may be up to thirty-three percent (33%) impervious surface, provided that all such area is used for pedestrian walkways and that such walkways are adequately buffered from the parking areas. The distance from one landscaped island to next or to the perimeter of the parking lot shall be no more than 180 feet.

- B. Parking lot perimeter landscaping:

- (1) Perimeter parking lot landscaping shall create visual screening of automobile parking areas, create summer shade along paved surfaces and reduce wind velocity across open lot areas. Buffer strips shall be located along the perimeter of at least three sides of all parking lots with more than 10 spaces, and shall meet the following specifications:

Number of Spaces in Lot	Depth of Buffer Strip
Up to 10	10 feet
11 - 24	10 feet plus one foot for each space in excess of 10 spaces
25 or more	25 feet

- (2) If the parking perimeter buffer requirements conflict with roadway/property line buffer requirements, the larger requirement shall apply.
- C. All interior and perimeter parking lot landscaped areas shall be suitably protected by raised curbing to avoid damage to the plant materials by vehicles and by snowplows and to define the edge of the landscaped area.

**§ 290-3-2.5. Landscaping Requirements for Buildings and Screening of Unsightly Features.**

- A. Landscaped areas at least ten (10) feet in depth shall be provided adjacent to buildings on every side of the building that has a public entrance, and shall contain trees and shrubs.
- B. Unsightly features such as loading areas, storage areas, refuse storage and disposal areas, service areas and mechanical or utility equipment shall be screened from view, to the extent feasible, from all public ways; and from adjacent properties, by the use of planted buffers, berms, natural contours, opaque fences, walls or a combination of the above. If berms, fences, or walls are used, accompanying plantings are required on the side facing the public.

**§ 290-3-2.6. Planting Requirements.**

- A. All landscaping and buffers shall consist of grass, shrubs and trees of a species common to the area and appropriate for their intended purpose. "Such plants shall not be deemed invasive species by the Massachusetts Department of Agricultural Resources." Such plantings shall be provided and maintained by the owner of the property used for nonresidential/multi-family purposes. The buffer area may contain walks, sewerage, and wells, but no part of any building structure, or space intended for or used as a parking area, driveway, or drive through may be located within the buffer area.
  - (1) The side/rear property line, bordering residential, and parking lot perimeter buffers, may include plantings, berms, natural contours, opaque fences, walls or a combination of the above. If berms, fences, or walls are used, accompanying plantings are required on the side facing the public.
  - (2) Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of twenty (20) feet within ten (10) years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting. Where the Planning Board determines that the planting of trees is impractical, the permit applicant may substitute shrubbery for trees. Shrubs and hedges shall be at least two and half (2.5) feet in height at the time of planting, and have a spread of at least eighteen (18) inches.
- B. Grass is preferable to mulch where practical.
- C. Wherever possible, the planting and screening requirements of this article shall be met by the retention of existing vegetation and topography. Existing trees with a caliper of six inches (6") or more shall be preserved wherever feasible.

**§ 290-3-2.7. Coordination with Site Plan Approval.**

The Planning Board may require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Article 3-2.

**§ 290-3-2.8. Maintenance of Landscaped Areas.**

The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this article. All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and non-plant ground surface materials shall be maintained so as to control weed growth.

## Article 3-3

**TOWNWIDE PARKING AND LOADING REQUIREMENTS****§ 290-3-3.1. General.**

Adequate off-street parking for non-residential uses must be provided to service all parking demand created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Such parking shall be on the same premises as the activity it serves, or within 200 feet on a separate parcel, which may be jointly used with other premises for this purpose, provided that the continued joint use of such parcel be ensured through an agreement recorded in the Registry of Deeds.

**§ 290-3-3.2. Reduction of Parking Requirement by Special Permit.**

Notwithstanding the provisions of § 290-3-3.3, the Planning Board may, by special permit, reduce the number of parking spaces required for nonresidential uses upon its determination that the intended use of the premises can be adequately served by fewer spaces. The Planning Board may consider on-street parking available near the premises as a factor in making this determination.

**§ 290-3-3.3. Table of Parking Requirements.**

Parking shall be provided in accordance with the following schedule. Any computation resulting in a fraction of a space shall be rounded to the highest whole number.

Principal Use	Minimum Number of Parking Spaces
PRINCIPAL USE A. RESIDENTIAL	PARKING
Detached single family dwelling	2 for each dwelling unit
Flexible development	1 for each dwelling unit up to 50 units and 1.5 for each dwelling unit in excess of 50
Conservation subdivision	2 for each dwelling unit up to 50 units and 1.5 for each unit dwelling in excess of 50
Townhouse development	2 for each dwelling unit

Principal Use	Minimum Number of Parking Spaces
<b>B. EXTENSIVE USES AND COMMUNITY FACILITIES</b>	
Airport	1 per 500 s.f. of gross floor area
Religious or educational use exempted by G.L. c. 40A, s.3	1 per 8 occupants + 1 per 2 employees
Educational use not exempted by G.L. c. 40A, s.3	1 per 8 occupants + 1 per 2 employees
Agricultural use not exempted by G.L. c.40A, s.3	Not Applicable
Cranberry receiving station	As may be determined by the building commissioner
Child care facility or day care facility exempted by G.L. c.40A, s.3	1 per 8 occupants + 1 per 2 employees
Municipal facilities	Based on Occupancy Load, 1 space for every 3 people
Essential services	Based on Occupancy Load, 1 space for every 3 people
Cemetery	1 per 8 occupants + 1 per 2 employees
Earth removal	Not Applicable
Mobile home park	2 for each dwelling unit, plus one space per each five homes
Non Exempt Educational Use	1 space for each teacher and employee, plus 1 space for each 10 students
<b>C. COMMERCIAL</b>	
Office	1 per 250 s.f. of gross floor area
Motor vehicle services station	4 spaces for every service bay/plus employees
Retail sales or rental without display outdoors	1 per 250 s.f. of gross floor area
Retail sales or rental with display outdoors	1 per 250 s.f. of gross floor area
Retail sales with manufacturing or assembly in a building less than 20,000 s.f. building footprint	1 per 500 s.f. of gross floor area

Principal Use	Minimum Number of Parking Spaces
Establishment for the sale or consumption of alcoholic beverages, with or without entertainment, including clubs, whether for profit or not for profit	1 space for each 4 seats plus employees
Junkyard or automobile graveyard	Not Applicable
Hospital or sanitarium	1 space for each 3 beds plus 1 for each 50 s.f. of outpatient facilities plus employees; plus 1 for each 400 s.f. net floor space of medical office buildings related to hospitals
Convalescent or nursing home, or assisted elderly housing	1 space for each 6 beds plus employees
Hotel or motel	(Hotel) 1 space for each 3 sleeping rooms/ plus employees (Motel) 1 space for each unit/plus employees
Service shop	1 for each 400 square feet of gross floor space
Fast food or drive in restaurant	1 space for each 300 s.f. of gross floor space
Animal hospital or Hobby or Commercial Kennel	1 space for each 400 s.f. of gross floor space
Drive in service at facility other than restaurant or bank	Not Applicable
Landscaping business	1 for each 400s.f. of gross floor space
Car wash	Spaces for employees
Commercial recreation outdoors	Based on Occupancy Load, 1 space for every 2 people
Major commercial project	1 for each 300 s.f. of gross floor space
Tattoo parlor/body piercing	1 for each 400 s.f. of gross floor space
Adult Use	1 space for each 4 seats plus employees
School or day care facility	1 per 4 occupants plus 1 per 2 employees
General Retail	1 per 250 square feet of gross floor area
Retail sales accessory to industrial use	1 per 500 square feet of gross floor area
Printing and Publishing	1 per 500 square feet of gross floor area
Medical Office	1 per 150 square feet of gross floor area
General Office	1 per 250 square feet of gross floor area

<b>Principal Use</b>	<b>Minimum Number of Parking Spaces</b>
Restaurants, not including fast-food or drive-in restaurant	1 per two seats plus 1 per two employees
Research and Development, Manufacturing, or Industrial	1 per 500 square feet of gross floor area, or 1 per employee, whichever is greater.
Warehousing and storage	1 per two employees but not less than 1 space per 5,000 square feet of area devoted to indoor or outdoor storage.
Inns and Bed and Breakfasts	1 per sleeping room plus 1 per 2 employees
Church, Library, Museum or similar place of assembly	1 per 8 occupants plus 1 per 2 employees
Bank, including free standing ATM and drive in facilities	1 per 175 square feet of gross floor area
Gasoline service station	2 per service bay plus 1 per employee
Self Storage Facility	1 off-street parking space shall be provided for each employee at the largest shift, plus 1 space for every 10,000 sq ft of gross floor area
<b>D. INDUSTRIAL</b>	
Light manufacturing in a building with less than 20,000s.f. building footprint	1 per 500 s.f. of gross floor area, or 1 per employee, whichever is greater
Light manufacturing in a building with more than 20,000 s.f. building footprint	2 per 500 s.f. of gross floor area, or 1 per employee, whichever is greater
Manufacturing, processing, assembly or fabrication in a building with less than 20,000s.f. building footprint	3 per 500 s.f. of gross floor area, or 1 per employee, whichever is greater
Manufacturing, processing, assembly or fabrication in a building with more than 20,000 s.f. building footprint	4 per 500 s.f. of gross floor area, or 1 per employee, whichever is greater
Wholesale, warehouse or distribution facility in a building with less than 20,000 s.f. building footprint	1 space for each 2 employees in the maximum working shift; others as may be determined by the building commissioner
Wholesale, warehouse or distribution facility in a building with more than 20,000 s.f. building footprint	2 spaces for each 2 employees in the maximum working shift; others as may be determined by the building commissioner
Bituminous concrete or concrete batching plant	As may be determined by the building commissioner
Contractors yard	1 space for each 2 employees in the maximum working shift



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Principal Use	Minimum Number of Parking Spaces
Sawmill	Based on Occupancy Load, 1 space for every 3 people
Truck, bus or freight terminal	Based on Occupancy Load, 1 space for every 3 people

**§ 290-3-3.4. PARKING LOT DESIGN.**

- A. To the extent feasible, required parking areas shall not be located forward of any building front line on the lot.
- (1) Notwithstanding the above, in any district except for RA, V, and PTCD, the Planning Board may grant permission in the course of site plan review to locate not more than eight (8) parking spaces in front of the principal building, where such location promotes a better site layout. As condition of such permission, the board may require that provisions be made for a common access way linking the property with existing or future adjacent uses.
- B. Parking spaces shall be at least 10'x 18'.
- C. The Planning Board may require the paving of all parking areas, except those serving residential premises.
- D. In parking areas with eight or more spaces, individual spaces shall be delineated by painted lines, wheel stops, or other means.
- E. For parking areas of fifteen (15) or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per five (5) parking spaces or fraction thereof, but not more than fifteen (15) bicycles. Such bicycle rack(s) may be located within the parking area or in another suitable location as deemed appropriate by the Planning Board.
- F. Parking lot aisles shall be designed in conformance with the following:

Parking Angle	Minimum Aisle Width (one-way traffic)	Minimum Aisle Width (two-way traffic)
0 degrees (parallel)	12 feet	20 feet
30 degrees	13 feet	20 feet
45 degrees	14 feet	21 feet
60 degrees	18 feet	23 feet
90 degrees	24 feet	24 feet

- G. All artificial lighting shall be not more than twenty (20) feet in height in pedestrian areas, and twenty (20) feet in parking lots, except that site lighting poles in the GBP Zone may be no more than 40 feet in height, and shall be arranged and shielded so as to prevent direct glare from the light source onto any public way or any other property

except at driveways and access ways where illumination is desirable for public safety purposes. All parking facilities which are used at night shall be lighted as evenly and fully as possible. The Planning Board shall require the applicant to provide the type and wattage of all proposed lighting for the parking areas.

- H. Parking facilities shall provide specially designated parking stalls for the physically handicapped in accordance with the Rules and Regulations of the Architectural Barriers Board of the Commonwealth of Massachusetts Department of Public Safety<sup>8</sup> or any agency superseding such agency. Handicapped stalls shall be clearly identified by a sign stating that such stalls are reserved for physically handicapped persons. Said stalls shall be located in that portion of the parking facility nearest the entrance to the use or structure which the parking facility serves. Adequate access for the handicapped from the parking facility to the structure shall be provided.

#### **§ 290-3-3.5. Driveway Design.**

Access driveways to nonresidential premises shall be a minimum of 12 feet wide for one-way traffic and a minimum of 24 feet for two-way traffic.

- A. Curb cuts shall be clearly defined with curbing. The number of curb cuts shall be minimized. Where possible, access shall be provided onto side streets rather than major roadways. Curb cuts shall be no closer than seventy-five (75) feet to existing curb cuts, and seventy-five (75) feet to intersecting roadways.
- B. To the extent feasible, lots and parking areas shall be served by common private access ways, in order to minimize the number of curb cuts. Such common access ways shall be in conformance with the functional standards of the Subdivision Rules and Regulations of the Planning Board for road construction, sidewalks, and drainage. Proposed documentation (in the form of easements, covenants, or contracts) shall be submitted with the application, demonstrating that proper maintenance, repair, and apportionment of liability for the common access way and any shared parking areas has been agreed upon by all lot owners proposing to use the common access way, and that the common access way shall be permanently available to uses on adjacent or nearby lots. Common access ways may serve any number of parcels deemed appropriate by the Planning Board.

#### **§ 290-3-3.6. Loading Requirements.**

Adequate off-street loading facilities and space shall be provided to service all needs created by construction whether through additions, change of use, or new structures. Facilities shall be so sized and arranged that no vehicle need regularly to back onto or off of a public way, or be parked on a public way while loading, unloading, or waiting to do so. Such areas shall be landscaped in accordance with § 290-3-2.4. Loading spaces shall be at least twelve (12) feet in width, fifty (50) feet in length and with a vertical clearance of at least fourteen (14) feet, having an area of not less than one thousand three hundred (1,300) square feet which includes access and maneuvering space, used exclusively for loading and unloading of goods and materials from one vehicle. The dimensions of the loading space may be reduced by the

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8. Editor's Note: Now the Architectural Access Board of the Office of Public Safety and Inspections.

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Planning Board during Site Plan Review to no less than six hundred (600) square feet which includes access and maneuvering space, when it is clearly evident that service vehicles utilizing said space will not require the area set forth above.

## Article 3-4

**DRIVE THROUGH FACILITIES****§ 290-3-4.1. Purpose:**

The purpose of this article is to protect the safety, public health, convenience and general welfare of the inhabitants of the Town of Carver by providing detailed review of the design and layout of drive-through facilities which have a substantial impact upon the character of the Town of Carver and upon traffic, utilities and services therein.

**§ 290-3-4.2. Powers and Administrative Procedures:**

The Planning Board is hereby designated the Special Permit Granting Authority (SPGA) for Drive-Through Plan Approval. The SPGA shall follow the procedural requirements for special permits as set forth in Section 9 of M.G.L. Chapter 40A. After notice and public hearing and after due consideration of the reports and recommendations of other town boards, commissions and or departments, the SPGA may grant such a permit. The SPGA shall also impose, in addition to any conditions specified in this article, such applicable as the SPGA finds reasonably appropriate to improve the site design as based on the design requirements listed below, traffic flow, safety and or otherwise serve the purpose of this article. The Applicant shall provide a traffic impact study at the discretion of the Planning Board. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.

**§ 290-3-4.3. Design Requirements:**

- A. Separation between access connections on all collector and arterials shall be based on the posted speed limit in accordance with the following table.

Posted Speed Limit (MPH)	Access Connection Spacing (Feet)
20	140
30	210
40	280
50	350

- B. The width of the access connections at the property line of the development shall not exceed 25 feet, unless a traffic impact study identifies and the SPGA agrees to the need for turning lanes from the development onto the adjacent public road.
- C. For a site at an intersection where no alternatives exist, such as joint or cross access, the Board may allow construction of an access connection at a location suitably

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removed from the intersection. In such cases, the applicant shall provide directional restrictions (i.e. right in/right out only and/or a restrictive median) as required by the Board.

- D. A system of joint use driveways and cross access easements shall be established wherever feasible along Route 58 and the proposed development shall incorporate the following:
  - (1) A service driveway or cross access corridor extending the width of the parcel.
  - (2) A design speed of 10 mph and sufficient width to accommodate two-way travel aisles.
  - (3) Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive.
- E. Developments that provide service drives between properties may be permitted a 10% reduction in the required number of parking spaces. If information can be provided to show that peak demand periods of development with shared parking or a service drive connection are not simultaneous, the number of required parking spaces may be reduced by 20%.
- F. Drive-through facilities shall provide a minimum of eight (8) stacking spaces (within the site) before the order board. The facility shall provide another four (4) stacking spaces between the order board and the transaction window. If the facility has two transaction windows, the four (4) stacking spaces may be split between each of the windows. An additional stacking space shall be provided adjacent to the last transaction window.
- G. Each stacking space shall be a minimum of twenty (20) feet in length and ten (10) feet in width along straight portions. Stacking spaces and stacking lane shall be a minimum of twelve (12) feet in width along curved segments.
- H. Stacking lanes shall be delineated from traffic aisles, other stacking lanes and parking areas with striping, curbing, landscaping and the use of alternative paving materials or raised medians. An analysis that indicates the best option will be reviewed by the board.
- I. Entrances to stacking lane(s) shall be clearly marked and a minimum of sixty (60) feet from the intersection with the public street. The distance shall be measured from the property line along the street to the beginning of the entrance.
- J. Any outdoor service facilities (including menu boards, speakers, etc.) shall be a minimum of twenty-five (25) feet from the property line of a residential use.
  - (1) Menu Boards shall be a maximum of thirty square feet, with a maximum height of six (6) feet in height and shall be shielded from any public street and residential properties.
  - (2) Exposed machinery, utility structures and areas for parking, loading, storage, service and disposal shall be screened from abutting properties and streets.

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- (3) Buffering between the stacking lanes, menu boards, speaker etc. when applicable will be provided utilizing any combination of landscaping, fencing and/or other material as determined by the Planning Board.

## Article 3-5

**SIGNS****§ 290-3-5.1. Purpose.**

The purpose of this Article 3-5, Signs, is to promote the safety, comfort, and well-being of the user of streets, roads, and highways in Carver; to reduce distractions and obstructions from signs which would adversely affect traffic safety, and to alleviate hazards caused by signs projecting over or encroaching upon public ways; to discourage excessive visual competition in signage and ensure that signs aid orientation and adequately identify uses and activities to the public; and to preserve or enhance town character by requiring new and replacement signage which is compatible with the surroundings, appropriate to the type of activity to which it pertains, expressive of the identity of individual proprietors or of the community as a whole, and appropriately sized in its context, so as to be easily readable.

**§ 290-3-5.2. General Regulations.**

- A. Permitted Signs. Only signs which refer to a use permitted by the Zoning By-Law or protected by statute are permitted, provided such signs conform to the provisions of this Sign By-Law.

VILLAGE AND AGRICULTURAL/RESIDENTIAL DISTRICTS <sup>#</sup>					
Sign	Permitted	Max. Number	Max. Area	Max Height	Clearance/ Setback
Address*	Yes	1 per building	2 square feet	4 feet	Setback at least 3 feet from right of way
Traffic Flow*	Yes	Unlimited	3 sq. feet per sign	4 feet	
Directory*	Yes	1 per multiple-occupancy commercial building	4 sq. ft. for the name of the building; 2 sq. ft. for each business	5 feet	
Freestanding♣	Yes	1 per single-occupancy commercial building	4 square feet	5 feet	
Marquee/Canopy	Yes	1 per business	4 square feet; letters may not exceed 12" in height	Lowest point of the roof	10 foot clearance above sidewalk

VILLAGE AND AGRICULTURAL/RESIDENTIAL DISTRICTS <sup>#</sup>					
Sign	Permitted	Max. Number	Max. Area	Max Height	Clearance/ Setback
Monument	No	1 per single-occupancy commercial building or business park			
Wall	Yes	1 per business♦	10% of wall area	Lowest point of the roof	Shall not project more than 6" from building
Window	Yes	1 per business	30% of the window area		
Individual letters or symbols	No				
TOTAL OF ALL SIGNS		2 per business	8 sq. ft. per business		
# Signs for home occupations are subject to the provisions of § 290-2-2.4A and B					

GENERAL BUSINESS AND SPRING STREET INNOVATION DISTRICT (SSID)					
Sign	Permitted	Max. Number	Max. Area	Max. Height	Clearance/ Setback
Address*	Yes	1 per building	2 sq. feet	4 feet	setback at least 3 feet from right of way
Traffic Flow*	Yes	unlimited	3 sq. ft. per sign	4 feet	
Directory♦	Yes	1 per multiple-occupancy commercial building	16 sq. ft. for the name of the building; 2 sq. ft. for each business	10 feet	
Freestanding	Yes	1 per single-occupancy commercial building	10 sq. feet	10 feet	
Marquee/Canopy	Yes	1 per business	8 sq. feet; letters may not exceed 12" in height	lowest point of roof	10 foot clearance above sidewalk
Monument	Yes	1 per single-occupancy commercial building or business park	10 square feet	4 feet	
Projecting	Yes	1 per business	10 square feet	Bottom sill of the second story window or the lowest point of the roof of a 1 story building	setback at least 2 ft from the curb; 8" clearance above sidewalk; 13" clearance above driveway

GENERAL BUSINESS AND SPRING STREET INNOVATION DISTRICT (SSID)					
Sign	Permitted	Max. Number	Max. Area	Max. Height	Clearance/ Setback
Wall	Yes	1 per business♦	10% of wall area	lowest point of the roof	shall not project more than 6" from building
Window	Yes	1 per business	30% of the window area		
Individual letters of symbols	Yes		10% of wall area		shall not project more than 12" from building surface
TOTAL OF ALL SIGNS		2 per business	16 sq. ft. per business		

HIGHWAY COMMERCIAL/INDUSTRIAL/GREEN BUSINESS PARK DISTRICTS					
Sign	Permitted	Max. Number	Max. Area	Max. Height	Clearance/ Setback
Address*	Yes	1 per building	2 square feet	4 feet	setback at least 3 feet from right of way
Traffic Flow*	Yes	unlimited	3 sq. ft per sign	4 feet	
Directory♦	Yes	1 per multiple-occupancy commercial building	16 sq. ft. for the name of the building; 2 sq. ft. for each business	10 feet	
Freestanding	Yes	1 per single-occupancy commercial building	16 sq. feet	10 feet	
Marquee/Canopy	Yes	1 per business	8 sq. Feet letters may not exceed 12" in height	lowest point of the roof	10 foot clearance above sidewalk
Monument	Yes	1 per single-occupancy commercial building or business park	16 square feet	4 feet	
Projecting	Yes	1 per business	10 square feet	bottom sill of the second story window or the lowest point of the roof of a 1 story building	setback at least 2 ft from the curb; 8' clearance above sidewalk; 13' clearance above driveway
Wall	Yes	1 per business♦	10% of wall area	lowest point of the roof	Shall not project more than 6" from building
Window	Yes	1 per business	30% of the window area		

<b>HIGHWAY COMMERCIAL/INDUSTRIAL/GREEN BUSINESS PARK DISTRICTS</b>					
<b>Sign</b>	<b>Permitted</b>	<b>Max. Number</b>	<b>Max. Area</b>	<b>Max. Height</b>	<b>Clearance/ Setback</b>
Individual letters or symbols	Yes		10% of wall area		Shall not project more than 12" from building surface
<b>TOTAL OF ALL SIGNS</b>		2 per business	32 sq. ft. per business		

\* Shall not count in the total number or area of signs allowed per business.

♦ 2 wall signs may be permitted per business where the business has frontage on two streets.

♣ Free standing signs over six feet in height may have no more than two sides; those less than six feet in height may have three or four sides.

# The name of the business included within a directory sign will not count as the one sign per business. However, the aggregate area will include both the directory sign and the additional sign permitted per business.

### **§ 290-3-5.3. Prohibited Signs.**

- A. Billboards, streamers, pennants, ribbons, spinners, signs tacked, posted, painted or otherwise attached to utility poles, posts, trees, sidewalks, buildings or curbs, or to motor vehicles and trailers regularly located for fixed display or other similar devices shall not be constructed, posted or erected in any zone; provided, however, that streamers, pennants, ribbons, spinners, or other similar devices may be permitted in conjunction with the grand opening of a business and for twenty (20) days thereafter. Flags and bunting exhibited to commemorate national patriotic holidays, and temporary banner announcing charitable or civic events are exempted from this prohibition.
- B. Flashing signs, signs containing moving parts, and signs containing reflective elements which sparkle or twinkle in the sunlight are not permitted. Signs indicating the current time and/or temperature are permitted provided they meet all other provisions of this By-law.
- C. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises is not permitted.
- D. Off-premises signs are not permitted in any district, with the exception of directional signs on public property.
- E. Roof signs which project above the highest point of the roof are not permitted in any district.
- F. When visible from a public way, no advertising shall be permitted on storage tanks, vehicles or similar types of containers. This restriction applies to both permanently located and mobile units, and trailers and trucks regularly located for fixed display. This prohibition shall not apply to properly registered vans, panel trucks, or any other business vehicles used on a regular basis on public ways for normal business.



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- G. Signs on trees, etc., except for approved subdivision entrance signs or signs warning of danger or prohibiting trespass or the like; no sign shall be painted on or affixed to any tree, fence, utility pole, painted or posted on any wall.
- H. Signs shall be illuminated from the exterior only by a stationary, shielded light directed solely at the sign, without causing glare for motorists, pedestrians or neighboring premises. Signs of the exposed neon or other gas-filled tube type are prohibited. No sign shall be internally illuminated, except those utilizing the "soft-glo" method.
- I. Illuminated features other than approved signs, on the exterior of a building that call attention to the building, product or services available within the building are prohibited.
- J. Individual freestanding signs are not permitted for multiple-occupancy commercial buildings. All information relating to establishments within the building or complex must be contained within one directory sign permitted for the entire premises.

**§ 290-3-5.4. Standards.****A. Illumination Standards.**

- (1) Signs shall be illuminated only with steady, stationary light sources directed solely onto the sign without causing glare. Internal illumination is prohibited. Lightbulbs and gas-filled tubes providing external illumination shall be shielded in such a way as to be hidden from view from any point along the roadway or sidewalk.
- (2) Strings of bulbs are not permitted, except as part of a holiday celebration; provided, however, that strings of bulbs may be permitted to decorate trees where such display does not interfere with neighboring land uses.
- (3) Signs may be illuminated during business hours and for thirty (30) minutes before and after the hours of operation of the business advertised thereon.
- (4) No person may erect a sign that constitutes a hazard to pedestrian or vehicular traffic because of intensity or direction of illumination.
- (5) Decorative neon window signs may be permitted where the Building Commissioner determines that such window signs are compatible with the building's historic or architectural character in style, scale and color.
- (6) Canopies shall not be illuminated from behind in such a way that light shines through canopy material creating the effect of an internally illuminated sign.

**B. Placement Standards.**

- (1) No person may erect a sign which is affixed to a utility pole, tree, or shrub.
- (2) No sign together with any supporting framework shall extend to a height above the maximum building height allowed in the zoning district in which it is located.
- (3) Signs shall not cover architectural details such as, but not limited to arches, sills, moldings, cornices, and transom windows.

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- (4) Signs for businesses withing the same structure shall be coordinated as to placement, porportion, and format.
- C. Safety Standards. No person may erect or maintain a sign which is structurally unsafe; constitutes a hazard to public safety and health by reason of inadequate maintenance, dilapidation or abandonment; obstructs free entrance or exit from a required door, window, or fire escape; obstructs the line of sight of drivers exiting from the property onto the street; obstructs light or air or interferes with proper functioning of the building; or does not conform to the State Building Code.
- D. Materials Standards.
  - (1) Village and Residential Districts: All signs shall be made of wood or metal. If plywood is to be used, it must have exceptionally smooth and weather resistant surfaces, such as those obtained with medium density overlay (MDO) board.
  - (2) General Business, Highway Commercial, Industrial and Airport Districts: The use of wood or metal signs is highly recommended.
- E. Color Standards.
  - (1) The number of colors shall be limited to three (3), except in the instance of an illustration.
  - (2) Colors should be chosen to complement the facade color of the building.
  - (3) Dark backgrounds with light colored lettering are strongly encouraged. Examples of preferred background colors are burgundy red, forest green, chocolate brown, black, charcoal, and navy blue.
  - (4) "Day Glow" colors are prohibited.
- F. Measurement of Sign Area.
  - (1) Sign measurement shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the actual sign surface.
  - (2) For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols together with any background of a different color than the natural color or finish material of the building.
  - (3) For a sign consisting of individual letters or symbols attached to, painted, or carved or engraved on a surface, building wall, or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
  - (4) The area of supporting framework (for example brackets, posts, etc.) shall not be included in the area if such framework is incidental to the display.
  - (5) When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two (2) feet from each other. In this case, the sign area shall

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be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

- G. **Measurement of Height.** The height of any sign shall be measured from the surface of the road up to the highest point of the sign. In situations where a sign is intended to be visible from two roads of different elevations measurement shall be from the surface of the lower roadway.
- H. **Maintenance.** A sign shall be maintained in a secure and safe condition. If the Sign Officer is of the opinion that a sign is not secure, safe, or in good state of repair, written notice of this fact shall be given to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within the time permitted by the Sign Officer, the Sign Officer may revoke the sign permit and take possession of the sign until the owner pays the cost of removal, thus placing the sign owner in violation of the sign bylaw and liable for a fine as specified in § 290-5-5.7F.
- I. **Exceptions.** For the purposes of this article, the term "sign" shall not include:
  - (1) signs erected or posted and maintained for public safety and welfare or pursuant to any governmental function, law, bylaw or other regulation;
  - (2) a bulletin board or similar sign not exceeding twenty (20) sq. ft in display area, in connection with any church, museum, library, school, or similar public or semi-public structure, provided that the top of such sign shall not be more than eight (8) feet above ground level and provided that it does not possess any of the characteristics listed in § 290-3-5.3 above;
  - (3) signs relating to trespassing and hunting not exceeding two (2) sq. ft. in area.

#### **§ 290-3-5.5. Nonconforming Signs.**

Nonconforming signs and sign structures which were lawfully in existence before the adoption of this bylaw may remain except as qualified below:

- A. Other than sign maintenance, no nonconforming sign shall be reconstructed, remodeled, relocated, or changed in size. Remodeling shall include changes in lettering or symbols due to change in tenancy or ownership of the premises. Changes in directory signs are excepted, and individual portions of a directory sign may be changed as tenancy or ownership dictate.
- B. Nothing in this Sign By-Law shall be deemed to prevent keeping in good repair a nonconforming sign, including sign maintenance, repainting and replacement of broken or deteriorated parts of the sign itself. Supporting structures for nonconforming signs may be replaced, providing that such replacement makes structure conforming as to height, setback, and other requirements.
- C. A nonconforming sign or sign structure which is destroyed or damaged by a casualty may be restored within six (6) months after such destruction or damage only after the owner has shown that the damage did not exceed fifty percent (50%) of the appraised value of the sign. If such sign or sign structure is destroyed or damaged to an extent exceeding fifty percent (50%), it shall be removed and shall not be reconstructed or

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replaced unless such action makes the sign and sign structure conforming in all respects.

- D. A nonconforming sign or sign structure shall be removed within thirty (30) days if the building containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of the building's appraised value.

#### **§ 290-3-5.6. Additional Regulations For Specific Types Of Signs.**

A. Directional Signs on Public Property.

- (1) Such signs may be allowed with permission of the Building Commissioner
- (2) Signs shall contain the business name and logo only (logo allowed for seasonal attractions only), with no additional advertising.
- (3) Signs shall not exceed 3 sq. ft. and shall not be illuminated.

B. Moveable or Temporary Signs (and/or moveable). Such signs are prohibited except as follows:

Type	Duration	Max. Size	Permit Required
Charitable or Civic Events	Week prior to event	80 square feet	no
Commercial	30 days; twice yearly	32 square feet	yes
Construction	6 months	12 square feet	no
For Sale/Rent/Lease	Till 30 days after sale or lease	6 square feet	no
Grand Opening Banner	21 days	32 square feet	no
Holiday displays: Banners and Bunting	4 separate 30 consecutive day periods in each calendar year	as appropriate (shall consist of cloth, canvas, vinyl or the like)	no
Political - unlighted <sup>9</sup>	30 days prior; 7 days after election*	6 square feet	no
Yard Sale	5 days prior	2 square feet	no

\* signs erected for a primary election may remain up through the final election

C. Projecting Signs.

- (1) Such sign shall be hung at right angles to the building and shall not project closer than two (2) feet to the curb line.
- (2) The supporting framework shall be in proportion to the size of such sign.
- (3) No such sign shall overhang a public way travelled by vehicles of any kind.

<sup>9</sup> Editor's Note: See also Ch. 232, Signs, Political, § 232-3.

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- (4) The top of the sign may be suspended in line with one of the following, whichever is the most successful application of scale, linear continuity, and visibility as determined by the sign officer:
  - (a) Suspended between the bottom sills of the second story windows and the top of the doors and windows of the ground floor; or
  - (b) The lowest point of the roof of a one story building.
- (5) Projecting signs shall have a minimum clearance of eight (8) feet above grade when located adjacent to or projecting over a pedestrian way. If projecting over a driveway, the clearance must be at least thirteen (13) feet.

## D. Public Service Signs.

- (1) Such signs necessary for public safety and convenience shall not exceed two (2) sq. ft.
- (2) Such signs shall bear no advertising.
- (3) Such signs are not included in computing total sign area allowed.

**§ 290-3-5.7. Administration.**

- A. Sign Permits. No sign shall be erected, displayed, altered or enlarged until an application has been filed, and until a permit for such action has been issued by the Building Commissioner. Applications may be filed by the owner of the land or building, or any person who has the authority to erect a sign on the premises, and shall be on forms prescribed by the Building Commissioner. At a minimum, all applications shall include a scale drawing specifying dimensions, materials, illumination, letter sizes, color, support systems, and location on land or buildings with all relevant measurements. Permits shall be issued only if the Building Commissioner determines that the sign complies or will comply with all applicable provisions of this Sign By-Law.
- B. Fees. A schedule of fees of such permits may be established and amended from time to time by the Building Commissioner.
- C. Duration of Permits. The Building Commissioner may limit the duration of any sign permit and may condition said permit upon continued ownership or operation of the business advertised upon the sign.
- D. Enforcement. The Zoning Enforcement Officer is hereby designated as the Sign Officer, and is hereby authorized to enforce this bylaw. The Sign Officer is authorized to order the repair or removal of any sign and its supporting structure which is judged dangerous, or in disrepair or which is erected or maintained contrary to this bylaw.
- E. Removal of Signs. Any sign which has been ordered removed by the Sign Officer, or which is abandoned or discontinued, shall be removed by the person, firm, or corporation responsible for the sign within thirty (30) days of written notice to remove. Any sign not removed within the time limit shall be deemed a public nuisance, and shall be removed by the Town of Carver. The cost of said removal shall be borne by

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the sign and/or property owner and may be recovered by the Town, if necessary, in an action in the appropriate court. A sign or structure removed by the Town shall be held for not less than thirty (30) days by the Town during which period it may be recovered by the owner upon payment to the Town of the cost of removal and storage, and upon payment of any fine which may have been imposed. If not recovered within said thirty (30) day period, the sign or structure shall be deemed abandoned and title thereto shall be vested in the Town for disposal in any manner permitted by law.

- F. Penalties. Violation of any provision of this bylaw or any lawful order of the Sign Officer shall be subject to a fine of not more than \$300.00 per offense. Each day that such violation continues shall constitute a separate offense.

**§ 290-3-5.8. (Reserved)**

Article 3-6

**LARGE-SCALE GROUND MOUNTED SOLAR PHOTOVOLTAIC  
INSTALLATIONS**

**[Amended 4-11-2023 ATM by Art. 27]**

**§ 290-3-6.1. Purpose.**

- A. The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations (LSGMSPI) including conventional and SMART/dual use, defined as those with a minimum nameplate capacity of 250 kW or greater or covering 1 acre or more of land, by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.
- B. The provisions set forth in this section shall apply to the construction, operation, and/or repair of LSGMSPI proposed to be constructed or materially altered after the effective date of this section and shall follow the guidelines set forth in the MA DOER/MA DEP/Mass CEC Clean Energy Results Ground Mounted Solar PV Systems dated June 2015, as amended to the most current guideline. To the extent that any particular provision of this bylaw is determined to be invalid, such invalidation shall not affect the validity of any other provision.
- C. Smaller scale ground or building mounted solar electric installations which are an accessory structure to an existing residential or non residential use do not need to comply with this Section, but must comply with the other provisions of Carver's Zoning Bylaws as applicable.

**§ 290-3-6.2. Exemptions.**

Notwithstanding any other Zoning Bylaw provisions to the contrary, the following types of solar uses and structures are exempt from the provisions of Article 3-6 and are considered as allowed uses and structures by right and customarily accessory and incidental to permitted

principal uses: a. Roof-mounted solar electric installations on a new non-residential building within the GBP District; provided, however, that such uses and structures above shall comply with the other provisions of the Carver Zoning Bylaws as applicable, and with health and safety requirements of the Building Inspector and Fire Chief, and/or his/her designee

**§ 290-3-6.3. General Requirements for all Large-Scale Solar Power Generation Installations.**

The following requirements are common to all LSGMSPI to be sited in designated locations:

- A. Site Plan Review. All LSGMSPI shall undergo site plan review prior to construction or modification by the Planning Board, prior to issuance of a building permit to ensure conformity with all applicable bylaws.
  - (1) General. All plans and maps shall be prepared, stamped and signed by a Professional Engineer and Professional Land Surveyor licensed to practice in Massachusetts.
  - (2) Required Documents. Pursuant to the site plan review process, the project proponent shall provide a site plan showing:
    - (a) Surveyed Plans and engineered drawings of Commercial Solar Energy Facility signed and stamped by a Registered Land Surveyor and by a Professional Engineer licensed to practice in Massachusetts, showing the proposed layout of the system;
    - (b) Existing Conditions: showing property lines and physical features including, but not limited to: wetlands and related buffer zones, rivers and associated riverfront areas, land subject to flooding, vernal pools, FEMA flood plains, logging or access roads, forested areas, forest density, existing vegetation, priority and estimated habitats;
    - (c) Proposed changes to the landscape of the site including: grading, vegetation clearing, pollarding, as well as boundaries of proposed vegetative buffer;
    - (d) Locations of public water supply as well as abutting properties' wells and septic systems;
    - (e) Proposed surveyed layout of the system/facility and related structures, including final stormwater and other site management devices, fences, and the location of 20-foot wide access roads, including emergency vehicle turnarounds. Potential shading from nearby trees or structures should also be included;
    - (f) Blueprints or drawings of the solar photovoltaic installation, and one or three line electrical diagrams detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system;

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- (g) Documentation of the major system components to be used, including makes and models of the PV panels, transformer, inverter, mounting system, and chemicals for cleaning and maintenance of equipment;
- (h) Landscape plan(s) pursuant to 12.3.8.7<sup>10</sup> detailing the proposed natural vegetative buffer and visual screen. Boundaries of existing vegetation shall be shown in lighter lines beneath;
- (i) Diagrams of sight lines from abutting residential and commercial structures and public ways, and visualizations of views of the site from which the facility would be visible;
- (j) Construction stormwater management and erosion control;
- (k) Post-installation stormwater management plan;
- (l) Prior to the issuance of a Building Permit the applicant shall provide to the Building Inspector and to the Special Permit Granting Authority Safety Data Sheet (SDS)/Materials Data Sheets (MDS) for all components of (internal and external), and products for, construction of the Solar Energy Facility.
- (m) Name, address, and contact information for proposed system installer, the project proponent(s), and property owners if different;
- (n) The name, contact information, signature of any agents representing the project proponent; and
  - [1] Documentation of actual or prospective access and control of the project site (see also Subsection B);
  - [2] An operation and maintenance plan (see also Subsection C);
  - [3] District designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
  - [4] Proof of liability insurance; and
  - [5] Description of financial surety that satisfies § 290-3-6.6C.

The Planning Board may require additional information, data or evidence as it deems necessary pursuant to the site plan review process.

- B. Site Control. The project proponent shall submit documentation of prospective access and control of the project site sufficient to allow for construction and operation of the proposed LSGMSPI.
- C. Operation & Maintenance Plan. The project proponent shall submit a plan for the operation and maintenance of the LSGMSPI, which shall include measures for maintaining safe access to the installation, repair or replacement of nonfunctioning

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10. Editor's Note: So in original; see Art. 3-2, General Landscaping Requirements.



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panels, storm water controls, as well as general procedures for operational maintenance of the installation. A ground fuels maintenance plan shall be submitted during the site plan review process and be approved by the Fire Chief. The approved plan shall become a condition of the general site maintenance requirements outlined in § 290-3-6.5.

D. Utility Notification. No proposed LSGMSPI shall be submitted for review until evidence has been given to the Planning Board that the utility company that operates the electrical grid to which the installation is to be connected has been informed of the LSGMSPI owner or operator's intent to install an interconnected customer-owned generator, and that the electrical grid can safely transmit the proposed power output of the installation.

E. Dimension and Density Requirements.

(1) Setbacks.

(a)

- [1] For LSGMSPI, front, side, and rear setbacks shall be at least 50 feet on the applicant's property; provided, however, that where the lot is located in a Residential-Agricultural district, the setbacks shall not be less than 200 feet on the applicant's property. LSGMSPI shall be provided with 200 foot setbacks on all lot lines abutting the Residential-Agricultural district, regardless of the zoning designated for the proposed site. Vegetated screening shall be provided for a minimum of 50% of the specified setback.
- [2] Every abutting property shall be visually and acoustically screened from the installation through either existing vegetation or new plantings of not less than 8 feet in height at the time of planting staggered at a spacing of no more than 8 feet apart throughout the required setback dimensions. All required plantings shall be maintained throughout the project's life, and replaced as necessary. As an alternate to providing the required screening through vegetation, it is acceptable to increase the setback to 600 feet on the applicant's property while providing an acceptable alternate screening such as a stockade fence and single row of vegetation in close proximity to the project.
- [3] The provided screening shall obscure from view on all sides at least 50% or 100% if the project is located in the Residential-Agricultural zoning district, of the project from adjacent properties, including upper levels of existing structures at the time of construction, within three years of the start of construction or earthwork activities. Security fences, roadways, and equipment shall not be placed within the required setback, except for that which is required to access the site from an adjacent roadway, or to transmit the generated power to the grid. Access roads and transmission lines shall be placed in such a manner as to not create an unobstructed view of the project from adjacent property lines.

(b)

[1] Direct abutters to large-scale ground mounted solar photovoltaic installations (LSGMSPI) have the option of reducing the setbacks to a minimum of 50' along their common border of the project in a Residential-Agricultural (RA) zoning district by providing a signed affidavit that waives standard setback and screening requirements. The Applicants are required to contact all direct abutters affected to establish their willingness to enter into an agreement to waive the requirements. Signed affidavits must be provided to the Planning Board and on file with the Planning Board and referenced in the Special Permit decision.

[2] Setbacks between arrays to be reduced to a minimum of 12.5 feet by right where arrays are proposed in a joint Application by owners, or common ownership of abutting properties.

(c) Other Setbacks: Large Solar Energy Facilities shall be sited at least one hundred fifty feet (150') from abutting properties' wells and septic systems.

(2) Maximum Site Density.

(a) For projects with 10-20 acres within the security fence or the inner limits of screening if no security fence, no more than 50% of the receiving lot may be developed. For projects greater than 20 acres, up to 66% of the receiving lot may be developed. The developed area shall include the area of the project within the security fence of inner limits of screening if no security fence, plus all other existing and proposed structures throughout the site.

(b) When one project is proposed on multiple contiguous parcels, only one single application is required.

(3) Appurtenant Structures. All appurtenant structures to LSGMSPI shall be subject to regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements contained elsewhere within the zoning bylaws. All such appurtenant structures shall be architecturally compatible with each other and be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts. The project shall be designed so that the transformer(s) and inverter(s) are sited in the most remote location practical.

F. Design Standards.

(1) Lighting. Lighting of LSGMSPI shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, shall be shielded to eliminate glare from abutting properties, shall be directed downward, and shall incorporate cut-off fixtures to reduce light pollution.

(2) Signage. Signs on LSGMSPI shall comply with the Town of Carver's sign bylaw, Article 3-5. Signage at all site entrances shall be required to identify the owner and provide a 24-hour emergency contact phone number. LSGMSPI shall not be used for the display of any advertising.

- (3) Utility Connections. All utility connections including associated equipment and utility equipment from the LSGMSPI shall be placed underground or pad mounted, unless soil conditions, shape, or topography of the site as verified by Town's Consulting Engineer dictate above ground installation. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- (4) Hazardous Materials. Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to Mass DEP regulations 310 CMR 30.000, and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the LSGMSPI, including the photovoltaic panels or transformer(s), then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.
- (5) Glare: The solar PV modules shall be positioned in such a way that minimizes glare to greatest practicable extent on a residence or public way at any time during the day.

**§ 290-3-6.4. Safety and Environmental Standards.**

- A. Emergency Services. The LSGMSPI owner or operator shall provide a copy of the project summary, electrical schematic, as built plans, and site plan to the Fire Chief and Emergency Management Director. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the LSGMSPI shall be clearly marked, and training required to allow emergency response personnel to safely shut down the LSGMSPI in event of an emergency provided at no cost to the Town as requested by the Town. The owner or operator shall identify a responsible person for public inquires throughout the life of the installation, all changes shall immediately be brought to the attention of the Town. Site access to LSGMSPI shall be conducive to emergency vehicle travel to allow for unimpeded access around the site at all times. Access requirements, not limited to gating, road widths and surfaces, etc. will be reviewed during the site plan review process, with approval being at the discretion of the Fire Chief.
- B. Land Clearing, Soil Erosion and Habitat Impacts Pre Construction Conference.
  - (1) Prior to any site disturbance and construction, the limits of the approved buffer zones and any other approved site disturbances, shall be surveyed and clearly marked by a Professional Land Surveyor. Upon completion of the survey, the Professional Land Surveyor shall verify to the Planning Board, in writing, that the limit of work, as shown on the approved site plans, has been established on site.
  - (2) Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the LSGMSPI or otherwise prescribed by applicable laws, regulations, and bylaws. Not more than 30% of forested land up to a maximum of five acres per lot shall be deforested for any one LSGMSPI.

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- (3) Mitigation Measures. Mitigation for Loss of Forest Habitat within the Installation. If forestland is proposed to be converted to a LSGMSPI, the plans shall show mitigation measures that create a wildflower meadow habitat, pollinator species within and immediately around the LSGMSPI and a successional forest habitat in the surrounding areas managed to prevent shading until the installation is decommissioned and the site restored to forest. The special permit may be conditioned to effect and make enforceable this requirement.
- (4) No clearing or site work can begin prior to a Preconstruction Conference held with the applicant, their contractor(s) and Town Staff including the Building Commissioner, Conservation Agent and Town Planner.
- C. Control of Vegetation. Mowing or the use of pervious pavers or geo-textile materials underneath the LSGMSPI is the preferred method of vegetation control. Herbicides may only be used where it can be demonstrated that no danger is posed to groundwater supplies, or to local agricultural activities. Use of chemical herbicides or pesticide is limited to those approved by the Department of Agriculture Pesticide Bureau.
- D. Panel Maintenance. Any and all materials used for maintenance of the LSGMSPI or other structures shall be properly disposed of and no harmful chemicals shall be used or stored onsite.

#### **§ 290-3-6.5. Monitoring and Maintenance.**

- A. Large-Scale Solar Photovoltaic Installation Conditions. The LSGMSPI owner or operator shall maintain the facility in good condition, including but not be limited to, snow removal, painting, structural repairs, repair or replacement of nonfunctioning panels, on an annual basis maintenance of landscaping and required screening, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for all maintenance.
- B. Modifications. All material modifications to a LSGMSPI made after issuance of the required building permit shall require site plan review and approval by the Planning Board for continued compliance of all applicable bylaws.
- C. Annual Reporting. The owner or operator of the LSGMSPI shall submit an Annual Report demonstrating and certifying compliance with the Operation and Maintenance Plan and the requirements of this bylaw and their approved site plan including control of vegetation, maintenance of screening, adequacy of road access, information on the maintenance completed during the course of the year, and the amount of electricity generated by the facility. 6 copies of the report shall be submitted to the Board of Selectmen no later than 45 days after the end of the calendar year.

#### **§ 290-3-6.6. Change of ownership: Abandonment or Decommissioning.**

- A. Ownership Changes. If the owner of the LSGMSPI changes or the owner of the property changes, the special permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. A new owner or operator of the LSGMSPI

shall notify the Building Commissioner of such change in ownership or operator within 14 days of the ownership change. A new owner or operator must provide such notification to the Building Commissioner in writing and meet with any permitting authority from which the original applicant received a permit.

- B. **Removal Requirements.** Any LSGMSPI which has reached the end of its useful life, or has been abandoned consistent with § 290-3-6.6C of this bylaw, shall be removed no more than 120 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
  - (1) Physical removal of all LSGMSPI, structures, equipment, security barriers, and transmission lines from the site.
  - (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - (3) Stabilization or re-vegetation of the site as necessary to minimize erosion and runoff. Including the use of pollinator species and cranberry plants especially for Dual Use installations.
- C. **Abandonment.** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the LSGMSPI shall be considered abandoned when it fails to operate for more than sixty days without the written consent of the Board of Selectmen. As a condition of approval, if the owner or operator of the LSGMSPI fails to remove the installation in accordance with the requirements of this section within 120 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation. The costs for the removal may be charged to the property owner.
- D. **Financial Surety.**
  - (1) Proponents of LSGMSPI shall provide a form of surety through an escrow account to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount determined to be reasonable by the Planning Board and form determined to be reasonable by the Treasurer, but in no event to be less than 75 percent nor to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein. Such surety will not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified expert, which shall include a mechanism for calculating increased removal costs due to inflation.
  - (2) The financial surety may also be used to replace and maintain all required landscaping and vegetative screening when in the opinion of the Planning Board the owner/operator has failed to do so. All costs incurred by the Town for maintenance activities shall be paid by the property owner within 90 days, or the maintenance costs may be charged to the property owner.

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**§ 290-3-6.7. Special Permit for LSGMPI.**

In the event that a Special Permit is required for a LSGMPI, the planning board may grant a Special Permit if the following conditions are met:

- A. Such use will not nullify or substantially derogate from the intent or purpose of this bylaw;
- B. Such use will not constitute a nuisance;
- C. Such use will not adversely affect the neighborhood in which it is sited;
- D. Such use complies with the standards for site plan review as spelled out in this bylaw;
- E. The Planning Board may also provide for other conditions that it deems necessary.

**§ 290-3-6.8. Dual Use Large Scale Ground-Mounted Solar Photovoltaic Installations ("LSGMPI")**

- A. Required setbacks and screening for SMART/Dual Use Arrays:

SMART/Dual Use Array				
	Array Height	Setback	% Screening in Setback	Abutters Notification
Residential - Agricultural	8'+	200' *	100% **	300'
* Planning Board may reduce setbacks, but in no instance shall setbacks be less than 50' when abutting a Residential/Agricultural district.				
** 100% screening shall be attained from the greater of abutting street grade or yard grade. Topographical situations may require flexibility in either setback or screening decisions.				

- B. To allow setbacks of a minimum of 12.5 feet if arrays are abutting a bog or other agricultural use as defined in G.L. c. 128, § 1A provided standard setbacks and screening requirements are waived in writing by all affected direct abutters in a Residential-Agricultural (RA) zoning district.

**ARTICLE 3-7****BATTERY ENERGY STORAGE SYSTEMS****[Added 4-11-2023 ATM by Art. 28]****§ 290-3-7.1. Purpose.**

- A. The purpose of this article is to advance and protect the public health, safety, welfare, and quality of life by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

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- (1) To provide a regulatory scheme for the location, construction and operation of battery energy storage systems consistent with best practices and safety protocols;
  - (2) To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems and to mitigate any potential impacts on abutting and nearby properties; and
  - (3) To mitigate the impacts of battery energy storage systems on environmental resources such as agricultural lands, forests, wildlife, wetlands and other natural resources.
- B. This article shall be construed to be consistent with state law, including but not limited to the provisions of General Laws chapter 40A, section 3, and state regulations, including but not limited to the provisions of the State Building Code, State Fire Code, and State Electrical Code. In the event of any conflict between the provisions of this section and the provisions of state law or regulations, the state law and regulations shall prevail.

**§ 290-3-7.2. Applicability.**

- A. The requirements of this bylaw shall apply to battery energy storage systems permitted, installed, decommissioned or modified after the effective date of this bylaw, excluding general maintenance and repair. BESS subject to this bylaw are only those that exceed the following capacities:
- (1) Lead-acid with a capacity of greater than 70 kWh
  - (2) Nickel with a capacity of greater than 70 kWh
  - (3) Lithium-ion with a capacity of greater than 30 kWh
  - (4) Sodium nickel chloride with a capacity of greater than 20 kWh
  - (5) Flow with a capacity of greater than 20 kWh.
  - (6) Other battery technologies with a capacity of greater than 10 kWh BESS that do not meet the threshold capacities above are not subject to this bylaw and are allowed by right in all zoning districts.
- B. A battery energy storage system that is subject to this bylaw is classified as a Tier 1, Tier 2 or Tier 3 Battery Energy Storage System as follows:
- (1) Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than 0.5MWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
  - (2) Tier 2 Battery Energy Storage Systems have an aggregate energy capacity equal to or greater than 0.5 MWh but less than 1MWH or are comprised of more than one storage battery technology in a room or enclosed area.
  - (3) Tier 3 Battery Energy Storage Systems have an aggregate energy capacity greater than 1 MWh or are comprised of more than one storage battery technology in a room or enclosed area.

**§ 290-3-7.3. General Requirements.**

- A. All permits required by state codes, including but not limited to building permit, an electrical permit, and a fire department permit shall be required for installation of all battery energy storage systems.
- B. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (a) contain or are otherwise associated with a battery energy storage system and (b) subject to the requirements of the State Building Code, shall be designed, erected, and installed in accordance with all applicable provisions of the State Building Code 780 CMR, State Fire Code 527 CMR 1.00, and State Electrical Code 527 CMR 12.00. All battery energy storage systems shall comply with NFPA 855, Standard for the Installation of Stationary Energy Storage Systems.
- C. Energy storage system capacities, including array capacity and separation, are limited to the thresholds contained in NFPA 855.
- D. All access roads should be at least 12' wide, constructed of an all-weather surface, and be cleared of obstructions on both sides by at least 2'. A 16' vertical clearance should be maintained for large vehicle access. Access gates erected onsite should be at least 12' wide, accessible via Carver Fire Department lock. Access to all four sides of each enclosure should be provided where practical.

**§ 290-3-7.4. Permitting Requirements for Tier 1 Battery Energy Storage Systems.**

Tier 1 Battery Energy Storage Systems are allowed by right in all zoning districts, subject to applicable provisions of the State Building Code, Electrical Code, Fire Code, and other applicable codes, and are subject to minor site plan review and such provisions of this bylaw as are applicable.

**§ 290-3-7.5. Permitting Requirements for Tier 2 and Tier 3 Battery Energy Storage Systems.**

Tier 2 and Tier 3 Battery Energy Storage Systems are subject to this bylaw and require the issuance of a special permit in those zoning districts identified in Use Regulations Schedule in § 290-2-2.3, and are subject to Site Plan Review pursuant to Article 3-1. Tier 1 and Tier 2 BESS shall comply with the applicable requirements set forth in this bylaw, as well as this Zoning Bylaw, and the Carver General Bylaws. The following requirements apply to all Tier 1, Tier 2 and Tier 3 BESS subject to this bylaw, except where it is specifically noted to apply only to Tier 2 and Tier 3 BESS:

- A. Utility Connections. All utility connections including associated equipment and utility equipment shall be placed underground or pad mounted, unless soil conditions, shape, or topography of the site as verified by the Town's Consulting Engineer dictate above ground installation. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- B. Signage. Signage shall comply with the requirements of Article 3-5 of this Zoning Bylaw and the following additional requirements; in the event of a conflict between the provisions of Article 3-5 and this section, the requirements of this section shall prevail.



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- (1) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
  - (2) As required by the state electrical code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
  - (3) Signage compliant with ANSI Z535 shall be provided on doors to rooms, entrances to BESS facilities, and on BESS outdoor containers.
- C. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety, security and operational purposes and shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, shall be shielded to eliminate glare from abutting properties, shall be directed downward, and shall incorporate cut-off fixtures to reduce light pollution.
- D. Vegetation and tree-cutting. Areas within thirty feet on each side of Tier 2 or Tier 3 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
- E. Setbacks.
- (1) Tier 1, 2 and 3 Battery Energy Storage Systems shall be set back a minimum of 50 feet from all side, rear, and front lot lines. Tier 2 and Tier 3 BESS shall be set back a minimum of 200 feet from side, rear, and front lot lines that abut or are across a street from residential zoning districts or existing single, two-family, or multi-family structures. The minimum setback areas shall include a vegetated Buffer/Screening Area at least twenty feet wide along all property lines. Access drives and parking are allowed in the setback areas, but shall not intrude into the required Buffer Areas except where necessary to provide access or egress to the property. In addition, a minimum of 10 feet must be maintained, if within a building, between BESS components and all stored combustible materials, hazardous materials, high-piled storage, infrastructure.
  - (2) Other Setbacks: Battery Energy Storage Systems shall be sited at least one hundred fifty feet (150') from abutting properties' wells and septic systems.
- F. Dimensional. Tier 2 and Tier 3 Battery Energy Storage Systems shall comply with the dimensional limitations for principal structures of the underlying zoning district as provided in Article 2-3 of this Zoning Bylaw, unless otherwise provided in this bylaw.
- G. Fencing Requirements. Tier 2 and Tier 3 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a minimum eight foot high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use

building. Security barriers, fences, landscaping, and other enclosures must not inhibit required air flow to or exhaust from the BESS and components. Electrical equipment greater than 1,000V require a separate and additional means to restrict access. NFPA 855 requires specialty safety systems to be provided based on the BESS chemistry and installed location.

- H. Screening and Visibility. Tier 2 and Tier 3 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. Such features may not inhibit required air flow to or exhaust from the BESS and components and must comply with the setbacks established in paragraph 6 above.
- I. Noise: An Acoustic Study shall be provided in order to ensure that any increase in sound complies with Mass DEP requirement limiting any increase in ambient noise to be less than 10 decibels at the property line.
- J. Mitigation for Loss of Carbon Sequestration and Forest Habitat. If land that is Forestland or has been Forestland within one year immediately preceding the filing an application to install a Tier 2 or Tier 3 BESS, the plans shall designate thereon an area of unprotected (meaning, not subject to G.L. c. 184, sections 31-33 at time of application) land on the same lot and of a size equal to two times the total area of Forestland that will be eliminated, cut, destroyed, or otherwise disturbed by such installation. Such designated land shall remain in substantially its natural condition without alteration, including prohibition of commercial forestry or tree cutting not related to the maintenance of the installation, until such time as the installation is decommissioned; except in response to a natural occurrence, invasive species or disease that impacts the trees and requires cutting to preserve the health of the forest.
- K. Mitigation for Disruption of Trail Networks. If existing trail networks, old roads, or woods or cart roads are disrupted by the location of a Tier 2 or Tier 3 BESS, the plans shall show alternative trail alignments to be constructed by the applicant, although no rights of public access may be established hereunder.
- L. Mitigation for Disruption of Historic Resources and Properties. Historic resources, structures and properties, such as cellar holes, farmsteads, stone corrals, marked graves, water wells, or pre-Columbian features, including those listed on the Massachusetts Register of Historic Places or as defined by the National Historic Preservation Act, shall be excluded from the areas proposed to be developed for a Tier 2 or Tier 3 BESS. A written assessment of the project's effects on each identified historic resource or property and ways to avoid, minimize or mitigate any adverse effects shall be submitted as part of the application. A suitable buffer area as determined by the PEDB shall be established on all sides of each historic resource.
- M. Batteries. Failed battery cells and modules shall not be stored on the site and shall be removed no later than 30 days after deemed failed by the BESS operator or cell/module manufacturer. The operator shall notify the Carver Fire Department in advance if the type of battery or batteries used onsite is to be changed.
- N. Decommissioning Plan. The applicant shall submit with its application a decommissioning plan for Tier 2 or Tier 3 BESS to be implemented upon abandonment

and/or in conjunction with removal of the facility. The owner or operator of the BESS shall notify the Building Commissioner in writing at least twenty days prior to when a Tier 2 BESS or Tier 3 will be decommissioned. Decommissioning of an abandoned or discontinued Tier 2 BESS or Tier 3 shall be completed within six months after the facility ceases operation. The decommissioning plan shall include:

- (1) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
  - (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
  - (3) The anticipated life of the battery energy storage system;
  - (4) The estimated decommissioning costs and how said estimate was determined;
  - (5) The method of ensuring that funds will be available for decommissioning and restoration;
  - (6) The method by which the decommissioning cost will be kept current;
  - (7) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
  - (8) A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.
- O. Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or other surety acceptable to the Town, in a form approved by the Planning Board and Town Counsel, for the removal of the battery energy storage system, in an amount to be determined by the Town, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant.
- P. Proof of Liability Insurance. The applicant or property owner shall provide evidence of commercially liability insurance in an amount and type generally acceptable in the industry and approved by the PEDB prior to the issuance of a building permit, and shall continue such insurance in effect until such facility has been decommissioned, removed, and the site restored in accordance with this bylaw.

**§ 290-3-7.6. Site plan application.**

For a Tier 2 or Tier 3 Battery Energy Storage System the site plan application shall include the following information, in addition to that required by Article 3-1 of this Zoning Bylaw:

- A. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all State Electrical Code compliant disconnects and over current devices.
- B. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- C. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- D. Large-scale fire test data, evaluation information, and calculations, and modeling data. For any of the following, UL 9540A fire test data must be made available to the Planning Board and Fire Department for review: - BESS systems with a capacity of greater than 50kWh - BESS systems with spacing between arrays of less than 3 feet.
- E. Safety data sheet (SDS) that address response safety concerns and extinguishment.
- F. Commissioning Plan. The system installer or commissioning agent shall prepare a commissioning plan prior to the start of commissioning. Such plan shall be compliant with NFPA 855 and document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in applicable state codes. Where commissioning is required by the Building Code, battery energy storage system commissioning shall be conducted by a Massachusetts Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required by applicable state codes shall be provided to Zoning Enforcement Officer and the Carver Fire Department prior to final inspection and approval and maintained at an approved on-site location.
- G. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with state codes, including documentation that BESS components comply with the safety standards set forth in § 290-3-7.8.
- H. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth state codes and NFPA 855. Maintenance provisions will be driven by manufacturer requirements for the specific listed system.
- I. Depending on the location of the BESS in relation to and its interaction with the electrical grid, interconnection will be completed per 527 CMR 12.00. System

interconnections into utility grids shall be in accordance with NFPA 855. An accessible disconnect is required per 527 CMR 12.00.

- J. Prior to the issuance of the building permit, engineering documents must be signed and sealed by a Massachusetts Licensed Professional Engineer.
- K. Emergency Operations Plan. An Emergency Operations Plan compliant with NFPA 855 is required. A copy of the Emergency Operations Plan approved by the Carver Fire Department shall be given to the system owner, the local fire department, and local fire code official. For so long as the BESS is operational, the operator shall provide the Fire Department, Police Department, Building Commissioner, and Town Manager's office with contact information for personnel that can be reached 24 hours per day every day, and this contact information shall be updated by the operator whenever there is a change in the information. The operator shall also be required to have an official representative be present onsite not later than two hours after notification by the Fire Chief, Police Chief, or their designee. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
  - (1) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe startup following cessation of emergency conditions.
  - (2) Procedures for inspection and testing of associated alarms, interlocks, and controls, including time intervals for inspection and testing.
  - (3) Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
  - (4) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
  - (5) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
  - (6) Procedures for safe disposal of battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment and any affected soils from the facility.
  - (7) Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.

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- (8) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

- L. Yearly Site Inspection Plan. Such plan shall specify that a yearly site plan is conducted by a Massachusetts Licensed Professional Engineer to document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in applicable state codes.

#### **§ 290-3-7.7. Ownership Changes.**

If the owner of the battery energy storage system changes or the owner of the property changes, the special permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Building Commissioner of such change in ownership or operator within 14 days of the ownership change. A new owner or operator must provide such notification to the Building Commissioner in writing and meet with any permitting authority from which the original applicant received a permit.

#### **§ 290-3-7.8. Safety.**

- A. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:
  - (1) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
  - (2) UL 1642 (Standard for Lithium Batteries),
  - (3) UL 1741 or UL 62109 (Inverters and Power Converters),
  - (4) Certified under the applicable electrical, building, and fire prevention codes as required.
  - (5) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.
- B. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.
- C. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

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- D. Yearly Site Inspection. A yearly inspection shall be conducted by a Massachusetts Licensed Professional Engineer per the Yearly Site Inspection Plan. A Corrective action plan shall be developed for any open or continuing issues that are reported. A report describing the results of the site inspection and corrective action plan shall be provided to the Carver Fire Department, Police Department, Carver Building Commissioner and Town Manager's Office.

#### **§ 290-3-7.9. Abandonment.**

The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than 90 days. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, after compliance with any applicable state and federal constitutional requirements, enter the property and utilize the available bond and/or security for the removal of a Tier 2 BESS or Tier 3 and restoration of the site in accordance with the decommissioning plan.

#### **§ 290-3-7.10. Definitions.**

As used in this bylaw, the following terms shall have the meanings indicated. Terms that are not defined herein or elsewhere in this Zoning Bylaw shall be as defined in NFPA 855 if applicable.

ANSI — American National Standards Institute.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM (BESS) — An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY OR BATTERIES — A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this bylaw, batteries utilized in consumer products are excluded from these requirements.

CELL — The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING — A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DEDICATED-USE BUILDING — A building that is built for the primary intention of housing battery energy storage system equipment, and complies with the following:

- A. The building's only use is battery energy storage, energy generation, and other electrical grid related operations.
- B. No other occupancy types are permitted in the building.

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- C. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- D. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
  - (1) The areas do not occupy more than 10 percent of the building area of the story in which they are located.
  - (2) A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

**DIRECT ABUTTER** — An owner of property, as shown on the most recent applicable tax list, that is adjacent to the property(ies) seeking a permit.

**FOREST LAND** — An ecosystem at least one acre in size stocked with trees capable of producing timber or other wood products which have not been developed for other uses.

**NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL)** — A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

**NFPA** — National Fire Protection Association. **Non-Dedicated-Use Building:** All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

**NON-PARTICIPATING PROPERTY** — Any property that is not a participating property.

**NON-PARTICIPATING RESIDENCE** — Any residence located on non-participating property.

**PARTICIPATING PROPERTY** — A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

**THIS BYLAW** — Article 3-7 of the Zoning Bylaw.

**UL** — Underwriters Laboratory.

## Article 3-8

### ENVIRONMENTAL CONTROLS

#### § 290-3-8.1. Disturbances.

No use shall be allowed if it will cause sound, noise, vibration, odor or flashing (except for warning devices, temporary construction, or maintenance work, parades, recreational or agricultural activities, or other special circumstances) perceptible without instruments more than 200 feet from the boundaries of the originating premises if in a non-residential district,



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or more than 40 feet from the boundaries of the originating premises if in a residential district, unless otherwise specified herein. However, the Board of Appeals may grant a special permit for an exception for activities not meeting these standards, in cases where the Board determines that no objectionable conditions are thereby created for the use of other affected properties.

**§ 290-3-8.2. Erosion Control.**

Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

- A. Grading or construction which will result in final slopes of 15% or greater on 50% or more of lot area, or on 30,000 square feet or more on a single lot, even if less than half the lot area, shall be allowed only under special permit from the Planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review.
- B. All slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of 4 inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.
- C. No area or areas totalling 2 acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.
- D. The Building Inspector may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover, and the nature of impoundment basins proposed, if any.
- E. In granting a special permit under Subsection A or B, the Planning Board shall require a performance bond to ensure compliance with the requirements of this article.
- F. Hillside areas, except naturally occurring ledge or bedrock outcroppings or ledge cuts, shall be retained with retaining walls, or with vegetative cover as follows:

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Average percentage slope	Minimum percentage of land to remain in vegetation
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 and above	85

**§ 290-3-8.3. Wind Energy Facilities (WEF).**

- A. Purpose. The purpose of this article is to provide for the development and use of wind power as an alternative energy source, while protecting public health, safety and welfare, preserving environmental, historic and scenic resources, controlling noise levels and preventing electromagnetic interference.
- B. Applicability. Any application to erect a structure that utilizes energy from wind shall comply with this article.
- C. Definitions.

**COMMERCIAL WIND ENERGY FACILITY (CWEF)** — A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity greater than 10.1 kW, located in a designated commercial district.

- (1) WEF located in commercial districts by commercial entities with a rated capacity of not more than 10.1 kW shall be permitted as residential.
- (2) WEF serving neighborhoods or multiple residences are encouraged however; proposals shall be permitted as a CWEF, allowed in residential districts.

**RESIDENTIAL WIND ENERGY FACILITY (RWEF)** — A wind energy conversion system consisting of a wind turbine, and associated control or conversion electronics, which has a rated capacity of not more than 10.1 kW, located on a single lot, intended as an accessory use in a designated residential district or in connection with any residential use in a designated commercial district or in connection to any agricultural use in any zoning district.

**TEMPORARY METEOROLOGICAL TOWERS (MET TOWERS)** — Wind measuring equipment that typically consists of, and limited to, one or more anemometers and wind vanes and related recording devices mounted on a temporary tower structure for the purpose of ascertaining the wind resource that exists at a particular site. Met Towers to be installed and operated for a maximum of thirty-seven (37) months shall be considered Temporary; any such equipment to be installed and operated in excess of thirty-seven (37) months shall be considered permanent and included in the definition of WEF.

**WIND ENERGY FACILITY (WEF)** — All equipment, machinery and structures utilized in connection with wind-generated energy production and generation, including accessory transmission, distribution, collection, storage or supply systems whether

underground, on the surface, or overhead and other equipment or byproducts in connection therewith and the sale of the energy produced thereby, including but not limited to, wind turbine (rotor, electrical generator and tower) and accessory permanent meteorological (wind measuring devices including anemometers and related equipment) towers to be in place for more than thirty-seven (37) months, transformers, substation, power lines, control and maintenance facilities, site access and service roads. Temporary meteorological towers are not a WEF and are separately provided for in the definition of "temporary meteorological towers (MET towers)."

**WIND TURBINE** — A single device that converts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower without guy wires.

**D. Special Permit Granting Authority.**

- (1) The Planning Board is hereby established as the Special Permit Granting Authority (SPGA) in connection with construction of Wind Energy Facilities (WEF).
- (2) The SPGA shall grant a Special Permit only if it finds that the proposal complies with the provisions of this bylaw (unless waived) and is consistent with the applicable criteria for granting special permits.

**E. Development Requirements.** The following requirements apply to all Wind Energy Facilities (WEF).

- (1) Proposed WEF shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.
- (2) Applicants shall provide a complete description of CWEF including technical, economic, environmental, and other reasons for the proposed location, height and design.
- (3) RWEF shall be limited to one (1) tower per lot or on contiguous lots held in common ownership. This number may be exceeded as part of the special permit process if the applicant can demonstrate that additional number is needed and that the additional benefits of the additional towers does not create any adverse impacts, as outlined in this bylaw.
- (4) Tower Height.
  - (a) CWEF: Height limited by special permit. The SPGA shall make a finding that the height proposed is necessary for adequate operation of the CWEF.
  - (b) RWEF: Maximum height ninety (90) feet. This height may be exceeded as part of the special permit process if the applicant can demonstrate that additional height is needed and that the additional benefits of the height does not create any adverse impacts, as outlined in this bylaw.
- (5) Monopole towers are the only type of support allowed.

- (6) Height Calculation. Overall height of the wind turbine shall be measured from the land in its natural state prior to grading or filling to the highest point reached by any part of the wind turbine.
- (7) Setbacks. The minimum setback for the wind turbine shall be maintained equal to the overall engineered designed height plus ten (10) feet from all boundaries of the site on which the WEF is located.
  - (a) No part of the WEF support structure may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located.
  - (b) WEF shall be setback a distance of four times the overall blade radius from access easements and above ground utility lines.
  - (c) The Planning Board may reduce setbacks distances for the WEF with the permission of the abutting property owner(s) together with an easement, as recorded at the Plymouth County Registry of Deeds, depicting such agreement.
- (8) Wetlands. No part of a WEF shall be located within the jurisdiction of the Carver Conservation Commission unless a determination is made by the Conservation Commission.
- (9) Noise. The WEF and associated equipment shall conform to the Massachusetts noise regulation (310 CMR 7.10). If deemed necessary by the SPGA, an analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.
  - (a) Manufacturer's specifications may be accepted when in the opinion of the Planning Board the information provided satisfies the above requirements.
  - (b) Upon written notification of a complaint of excessive noise, the Inspector of Buildings/Chief Zoning Enforcement Officer or his designee, herein after referred to, as the Enforcing Person shall record the filing of such complaint. The Enforcing Person shall promptly investigate. If noise levels are determined to be excessive, the Enforcing Person shall require the property owner to perform ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and to the nearest inhabited residence.
  - (c) If the noise levels are found to have exceeded allowable limits the Enforcing Person shall notify in writing the owner of the property to correct the violation. If the noise violation is not remedied within 30 days the CWEF shall remain inactive until the noise violation is remedied which may include relocation or removal at the owner's expense.
  - (d) If determined that allowable limits have not been exceeded, notice in writing shall be provided to the person who has filed such complaint and the owner of the property stating that no further action is required, all within fourteen (14) days of the receipt of the request. Any person

aggrieved by the decision may appeal said decision to the Board of Appeals in accordance with Article 5-2 of this Bylaw. Any such appeal must be filed within (30) days after the receipt of the decision of the Chief Zoning Enforcement Officer or Enforcement Officer.

- (10) Shadowing/Flicker. The WEF shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- (11) Prevention of Access. The applicant/owner shall ensure that all related components of the CWEF are protected from unlawful access.
- (12) Visual Impact. The applicant shall employ all reasonable means, including landscaping and alternative locations, to minimize the visual impact of all WEF components. All components of the WEF and its support structure shall be painted plain non-reflective muted colors without graphics or other decoration.
- (13) Lighting. If lighting is proposed (other than required FAA lights) the applicant shall submit a plan indicating the horizontal foot candles at grade, within the property line and twenty-five (25) beyond the property lines. The plan shall also indicate the locations and types of luminaries proposed.
- (14) Provisions for inspection and maintenance must be submitted.

F. Procedural Requirements.

- (1) Site Plan. A site plan must be submitted, prepared to scale by a registered land surveyor or civil engineer showing the location of the proposed WEF, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, above ground utility lines, existing and proposed vegetation, and any other significant features or appurtenances. Any portion of this article may be waived if in the opinion of the Planning Board the materials submitted are sufficient for the Board to make a decision.
- (2) Telecommunications. CWEF may include telecommunication antennas provided they comply with Article 4-6 of this bylaw. The telecommunications carrier shall be named as the co-applicant. Co-applications are encouraged.
- (3) Compliance with Massachusetts State Building Code. Building permit applications shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. Documentation showing compliance with the Massachusetts State Building Code certified by a licensed professional engineer shall also be submitted. (Manufacturer specifications may be suitable at the discretion of the Inspector of Building).
- (4) Compliance with FAA Regulations. WEF must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- (5) Compliance with National Electric Code. Building permit applications for WEF shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

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- (6) Utility Notification. No WEF shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (7) Abandonment: A WEF shall be considered to be abandoned if it is not operated for a period of two years, or if it is designated a safety hazard by the Inspector of Buildings. Once a WEF is designated as abandoned, the owner shall be required to physically remove the WEF within 90 days of written notice. "Physically remove" shall include, but not be limited to:
  - (a) Removal of WEF, any equipment shelters and security barriers from the subject property.
  - (b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - (c) Restoring the location of the WEF to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- (8) Modifications. All modifications (excluding repairs, maintenance, and equipment upgrades to existing structures and/or equipment) to a WEF made after issuance of the Special Permit shall require approval by the SPGA.
- (9) Professional Fees. The Planning Board may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be the expense of the applicant through the review and inspection fees.
- (10) The submittals and permits of this article shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law

G. Security.

- (1) Requirement. In conjunction with the above special permit approval process the Planning Board may require the posting of a bond or other security to assure satisfactory fulfillment of the above, in such sum and in accordance with such conditions as the Board may determine necessary.
- (2) Exception. The Board need not require security where there is full assurance of compliance with the above special permit.
- (3) Amount. The amount of security required shall not exceed either the estimated costs of the measures proposed, or the estimated cost of restoration of affected lands and property if the work is not performed as required, whichever is the greater.

H. Met Towers.

- (1) Zoning Permit: Met Towers shall be erected, constructed, installed, or modified only by first obtaining Administrative Review approval from the Planning Board. Met Towers shall be permitted under the same standards as a WEF provided for

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in § 290-3-8.3 and all related sections, except that: (a) The requirements apply to a temporary structure; (b) A permit for a temporary met tower shall be valid for a maximum thirty-seven (37) months in total, including any extensions that may be requested and granted; and (c) Small anemometers installed directly on buildings shall not require a building or special permit.

## Article 3-9

**FLOODPLAIN DISTRICT****§ 290-3-9.1. Scope of Authority.**

The Floodplain District is an overlay district and shall be superimposed on the other districts established by this bylaw. All regulations in the Carver Zoning Bylaw applicable to such underlying districts shall remain in effect, except that where the Floodplain District imposes additional regulations, the more stringent regulations shall prevail.

**§ 290-3-9.2. Purpose.**

The purpose of the Floodplain District is to:

- A. Ensure public safety through reducing the threats to life and personal injury;
- B. Eliminate new hazards to emergency response officials;
- C. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- D. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- E. Eliminate costs associated with the response and cleanup of flooding conditions;
- F. Reduce damage to public and private property resulting from flooding waters.

**§ 290-3-9.3. Floodplain District Delineation.**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Carver on the Plymouth County Flood Insurance Rate Map (FIRM) dated July 6, 2021, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Building Commissioner, Planning Board, and Conservation Commission.

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**§ 290-3-9.4. Administration, Abrogation, Liability, Severability.**

- A. Administration and Enforcement. The Town designates the position of Building Commissioner to be the official floodplain administrator for the Town of Carver. The Building Commissioner shall administer and enforce this by-law article in accordance with Article 5-1 of the Carver Zoning By-laws.
- B. Abrogation. The Floodplain management regulations found in this Floodplain District article shall take precedence over any less restrictive conflicting bylaws or regulations.
- C. Liability Disclaimer. The degree of flood protection required by this article is considered reasonable but does not imply total flood protection.
- D. Severability. If any section, provision or portion of this article is deemed unconstitutional or invalid by a court, the remainder of the article shall be effective.

**§ 290-3-9.5. New Technical Data Submission Requirements.**

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these change(s) by submitting the technical or scientific data that supports the change(s.)

- A. Notification shall be submitted to: FEMA Region I Risk Analysis Branch Chief 99 High St., 6th Floor Boston, MA 02110.
- B. And a copy of notification to: Massachusetts NFIP State Coordinator Massachusetts Department of Conservation and Recreation 251 Causeway Street Boston, MA 02114 3750.

**§ 290-3-9.6. Variances/Permits in the Floodplain.**

- A. Building Code Floodplain Variance. The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering the property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain district.
- B. Local Zoning Variances. A variance from these floodplain bylaws must meet the requirements set out by State law, and may be only granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.



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- C. Floodplain Permits. The Town of Carver requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
- D. Permitting Review Process. Carver's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain district. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.
- E. Subdivision and Other Development Proposals. All subdivision and development proposal in the floodplain district shall be reviewed to assure that: (a) Such proposals minimize flood damage; (b) Public utilities and facilities are located and constructed so as to minimize flood damage; and (c) Adequate drainage is provided.

#### **§ 290-3-9.7. Use Regulations.**

- A. Permitted Uses. Except as otherwise provided, in the Floodplain District, no new building shall be constructed, and no existing structure shall be enlarged within its existing footprint, moved to a more vulnerable location, or altered except to upgrade for compliance with documented existing health and safety codes; no dumping, filling, or earth transfer or relocation shall be permitted; nor shall any land, building or structure be used for any purposes, except:
  - (1) Outdoor recreation, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted, but excluding buildings and structures.
  - (2) Wildlife management or conservation areas, foot, bicycle, and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of floodwaters or of any water course.
  - (3) Agricultural uses or forestry uses.
  - (4) Uses lawfully existing prior to the enactment of this bylaw.
- B. Use Limitations.
  - (1) No development or redevelopment shall be permitted within FEMA identified Special Flood Hazard Areas, except where fire, storm, or similar disaster caused damage to or loss of greater than 50% of the market value of buildings in this high hazard zone.
  - (2) No new public infrastructure or expansion of existing infrastructure shall be made in FEMA A flood zones unless there is a documented and accepted overriding public benefit provided, and provided that the infrastructure will not promote new growth or development in these areas. New or replacement water and/or sewer systems shall be designed to avoid impairment to them or contamination from them during flooding.

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- (3) Development and redevelopment shall be subject to the requirements of the FEMA identified Special Flood Hazard Areas and related policies and regulations;
- (4) Public infrastructure and private wastewater treatment facilities may be constructed in FEMA Mapped A-zones provided that: 1) the facilities are consistent with the Flood Hazard Mitigation Plan and 2) the infrastructure is flood resistant.
- (5) All new buildings or substantial improvements to existing structures in the FEMA A zone shall comply with FEMA and State Building Code regulations for elevation and flood proofing.
- (6) In Zone AE, along watercourses within the Town of Carver that have a regulatory floodway designated on the Plymouth County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge."
- (7) All subdivision proposals must be designed to assure that:
  - (a) Such proposals minimize flood damage;
  - (b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - (c) Adequate drainage is provided to reduce exposure to flood hazards.
- (8) No activity shall increase the elevation or velocity of flood waters or flows in the floodplain district.

**§ 290-3-9.8. Base Flood Elevation, Floodway Data and Flood Zones.**

- A. Base Flood Plain Elevation Data. When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine, base flood elevations for each developable parcel shown on the design plans.
- B. Unnumbered A Zones. In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, and for prohibiting encroachments in floodways.
- C. Floodway Encroachment. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

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- D. AO and AH Zones. Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- E. Recreational Vehicles. In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.
- F. Notification of Watercourse Alteration. In a riverine situation The Town of Carver shall notify the following of any alteration or relocation of a watercourse:

- (1) Abutting Communities:

NFIP State Coordinator Massachusetts Department of Conservation and Recreation

251 Causeway Street, 8th Floor

Boston, MA 02114

- (2) NFIP Program Specialist:

Federal Emergency Management Agency, Region I

99 High Street, 6th Floor

Boston, MA 02110

### **§ 290-3-9.9. Definitions.**

**DEVELOPMENT** — Means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

**FLOOD BOUNDARY AND FLOODWAY MAP** — Means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

**FLOOD HAZARD BOUNDARY MAP (FHBM.)** — An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

**FLOODWAY** — The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** — Means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only

docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** — Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

**HISTORIC STRUCTURE** — Means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs. [US Code of Federal Regulations, Title 44, Part 59]

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

**RECREATIONAL VEHICLE** — Means a vehicle which is:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [US Code of Federal Regulations, Title 44, Part 59]

**REGULATORY FLOODWAY** — See FLOODWAY. **SPECIAL FLOOD HAZARD AREA**. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

**START OF CONSTRUCTION** — The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days

after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

**STRUCTURE** — For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

**SUBSTANTIAL REPAIR OF A FOUNDATION** — When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

**VARIANCE** — A grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

**VIOLATION** — The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5)<sup>11</sup> is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

## ZONES, FLOOD

- A. **ZONE A** — Means an area of special flood hazard without water surface elevations determined.
- B. **ZONE A1-30 AND ZONE AE** — Means area of special flood hazard with water surface elevations determined **ZONE AH** means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined **ZONE AO** means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

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11. Editor's Note: See 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), and (e)(5).

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- C. ZONE A99 — Means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)
- D. ZONES B, C, AND X — Means areas of minimal or moderate flood hazards or areas of future conditions flood hazard. (Zone X replaces Zones B and C on new and revised maps.)
- E. ZONE V — Means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)
- F. ZONE V1-30 AND ZONE VE (for new and revised maps) — Means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

## Article 3-10

**CONSERVATION SUBDIVISION DESIGN****§ 290-3-10.1. Purpose.**

The purpose of this Article 3-9, Conservation Subdivision Design, is to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use; to preserve historical and archeological resources; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the appearance of Carver's traditional New England landscape; to allow landowners a reasonable return on their investment; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and to promote the development of housing affordable to low and moderate income families.

**§ 290-3-10.2. Applicability.**

Any creation of five (5) or more lots, whether a subdivision or not, from a parcel or set of contiguous parcels held in common ownership and located entirely within the Residential Agricultural (RA) District, may proceed under this Article 3-9, Conservation Subdivision Design, pursuant to the issuance of a special permit by the Planning Board, as indicated in § 290-2-2.3, the Use Regulation Schedule. Such special permits shall be acted upon in accordance with the following provisions.

**§ 290-3-10.3. Procedures.**

Applicants for Conservation Subdivision Design shall file with the Planning Board six (6) copies of the following:

- A. A Development Plan conforming to the requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board. Such plan shall indicate proposed topography, wetlands, and, unless the development is to be sewered, the results of deep soil test pits and percolation tests at the rate of one per acre, but in no

case fewer than four (4) per Conservation Subdivision. Where wetland delineation is in doubt or dispute, the Planning Board shall require the applicant to submit to the Conservation Commission a request for determination of applicability pursuant to G.L. c. 131, s.40 and 310 CMR 10.05(3). The Planning Board shall refer data on proposed wastewater disposal to the Board of Health for their review and recommendation. The Planning Board may also require as part of the Development Plan any additional information necessary to make the determinations and assessments cited herein.

- B. **Four-Step Design Process.** Each Development Plan shall follow a four-step design process, as described below. When the Development Plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that these four design steps were followed by their site designers in determining the layout of their proposed streets, houselots, and open space.
- (1) **Designating the Open Space.** First, the open space is identified. The open space shall include, to the extent feasible, the most sensitive and noteworthy natural, scenic, and cultural resources on the property.
  - (2) **Location of House Sites.** Second, potential house sites are tentatively located. House sites should be located not closer than 100 feet to wetlands areas, but may be situated within 50 feet of open space areas, in order to enjoy views of the latter without negatively impacting the former.
  - (3) **Street and Lot Layout.** Third, align the proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on open space. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15% shall be strongly discouraged.
  - (4) **Lot Lines.** Fourth, draw in the lot lines. These are generally drawn midway between house locations.

#### **§ 290-3-10.4. Modification of Lot Requirements.**

The Planning Board may authorize modification of lot size, shape, and other bulk requirements for lots within a Conservation Subdivision, subject to the following limitations:

- A. Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved.
- B. Each lot shall contain not less than one-half of the area otherwise required in the district, and have frontage of not less than 50 feet.
- C. Each lot shall have at least 50% of the required yards in the district.

#### **§ 290-3-10.5. Number of Dwelling Units.**

The maximum number of dwelling units allowed shall be equal to the number of lots which could reasonably be expected to be developed upon that parcel under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands

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regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan. The Planning Board may require a preliminary conventional subdivision lotting plan to be submitted in order to demonstrate potential.

**§ 290-3-10.6. Open Space Requirements.**

A minimum of 20% of the parcel shown on the Development Plan shall be contiguous open space, excluding required yards and buffer areas. Such open space may be separated by the road(s) constructed within the Conservation Subdivision. Not more than 25% of such open space shall be wetlands, as defined pursuant to G.L. c. 131, s. 40.

- A. The required open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
- B. The required open space shall remain unbuilt upon, provided that ten percent (10%) of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, bikepaths, and agriculture.
- C. Underground utilities to serve the Conservation Subdivision site may be located within the required open space.
- D. The required open space shall, upon mutual agreement between the applicant and the Carver Planning Board, be conveyed to:
  - (1) The Town of Carver or its Conservation Commission;
  - (2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or
  - (3) A corporation or trust owned jointly or in common by the owners of lots within the Conservation Subdivision. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of the open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town of Carver to perform maintenance of the open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. The owner of each lot shall be deemed to have assented to the town filing a lien against each lot in the development for the full cost of such maintenance, which liens shall be released upon payment to the town of same. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded in the Registry of Deeds.



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- E. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

#### **§ 290-3-10.7. Buffer Areas.**

All dwellings and structures shall be located a minimum of 50 feet from adjacent properties, and 100 feet from adjacent surface waters or wetlands. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, in accordance with G.L. c. 131, s. 40, the Wetlands Protection Act, except where adjacent to agriculturally used property.

#### **§ 290-3-10.8. Decision.**

The Planning Board may approve, approve with conditions, or deny an application for a Conservation Subdivision, after assessing whether the Conservation Subdivision better promotes the objectives of § 290-3-9.1, herein, than would a conventional development.

#### **§ 290-3-10.9. Relation to Other Requirements.**

The submittals and permits of this article shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

### Article 3-11

## **TOWNHOUSE DEVELOPMENT**

#### **§ 290-3-11.1. Purpose.**

The purpose of this article is to encourage the preservation of open land for its scenic beauty particularly frontage along public ways, ponds, rivers, wetlands and to enhance open space, forestry, and recreational use; to preserve existing agricultural, historical and archeological resources; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the appearance of Carver's traditional New England landscape; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and to promote the development of varied housing opportunities, including housing affordable to low and moderate income families and provide accompanying conveniences, recreational areas and community center facilities.

#### **§ 290-3-11.2. Applicability.**

A Townhouse Development may be permitted by special permit on a single tract of land, in single or consolidated ownership at the time of application, with an area of at least twenty acres (20) or five (5) acres for over 55 housing entirely in the RA District or in the HC

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District, or with an area of at least three (3) acres entirely in the GB District or in the V District.

### **§ 290-3-11.3. Procedures.**

An applicant for a Townhouse Development shall submit to the Planning Board an application for a special permit and ten (10) copies of a Development Plan in such form as may be required in the Planning Board's Rules and Regulations Governing Townhouse Development Special Permits, together with a Net Usable Land Area plan as described in § 290-3-10.4 and an application for Site Plan Approval under Article 3-1. Special permits for Townhouse Developments shall be acted upon in accordance with Article 5-3 of this by-law, and shall conform to the standards in § 290-2-2.3 and to the following requirements.

### **§ 290-3-11.4. Number of Dwelling Units.**

The number of dwelling units shall be established by having a Net Usable Land Area (NULA) plan for the overall property submitted to the Board. The NULA acreage is established by subtracting all water bodies, wetlands, marshes, bogs and land within a sixty-five (65) foot wetland buffer area to these regulated lands. The remaining upland area is the NULA for the purposes of establishing the number of dwelling units allowed in a town house development. In the RA and HC districts, the total number of proposed dwelling units within the development shall not exceed one point two-five (1.25) units per NULA acre or two (2) units per NULA acre for over 55 housing. In the GB and V districts, the total number of proposed dwelling units within the development shall not exceed two (2) units per NULA acre.

- A. Fifteen percent (15%) of the total number of dwelling units shall meet the State's affordable housing requirements for low to moderate income. These affordable units shall be marketed through, and homebuyers or renters selected by, a housing organization approved by the Board with resale restrictions to assure continued affordability in perpetuity. Such restrictions shall be made known to the homebuyer or renter prior to the purchase/occupancy of unit. Dwelling units reserved for occupancy by persons or families of low to moderate income, or for occupancy by a single individual, shall not be segregated from market rate or larger dwelling units in the Townhouse Development. **[Amended 4-11-2023 ATM by Art. 33]**
- B. Dwelling units shall be varied as to the number of bedrooms. The maximum number of bedrooms allow in a dwelling unit shall be three (3). No more than fifteen percent (15%) of the total number of dwelling units shall have three (3) bedrooms.
- C. Maximum building height shall not exceed thirty-five (35) feet.
- D. The number of townhouse units in a proposed Town House Development, when combined with the number of all existing and previously permitted townhouse units in Carver, shall not exceed twenty-five percent (25%) of the total number of existing dwelling units in the Town as of the date of the Townhouse Development special permit application.
- E. Duplexes and/or two family dwellings shall be allowed in a Townhouse Development and shall adhere to all requirements as set forth in this by law. At no time shall more

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than 25% of the total number of units proposed in a Townhouse development be comprised of duplexes or two family structures.

**§ 290-3-11.5. Open Space Requirements.**

- A. One or more open space areas shall be shown on the development plan.
  - (1) Such areas shall include the following:
    - (a) All undeveloped wetlands on the parcel;
    - (b) The 65 ft. buffers to those wetlands; and
    - (c) A minimum of fifty percent (50%) of the NULA or thirty percent (30%) for over 55 housing of the parcel if it is in the RA or HC district, or a minimum of thirty percent (30%) of the NULA of the parcel in the GB or V district.
  - (2) Such open space shall exclude required building envelopes, and buffers to adjoining properties (except where buffer areas are contiguous to said open space areas). Such open space may be divided by roads constructed within the Townhouse Development.
- B. The required open space shall be used for conservation, historic preservation and education, outdoor passive education, park purposes, or for a combination of these uses, and shall be served by suitable access for such purposes.
- C. The required open space shall remain unbuilt upon, provided that five percent (5%) of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, such as a community center, pedestrian walks, bike paths, pools, tennis courts, and existing agriculture.
- D. The required open space shall be of a shape, size, character, and location suitable, in the opinion of the Planning Board, for its intended purposes. At least half of the required upland open space shall be in a consolidated and unfragmented mass, as reasonably interpreted by the Planning Board. To the extent possible, the open space shall include land of the greatest scenic, environmental, or recreational importance to the Town.
- E. The required open space shall be conveyed in conformance to the requirements provided in the Rules and Regulations Governing Townhouse Development Special Permits.
- F. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for the uses listed in Subsection B, and that it shall be maintained in a manner that will ensure its suitability for its intended purposes.

**§ 290-3-11.6. Design Standards.**

The following design standards are required:

- A. **Buffer Areas:** All dwellings and structures shall be located a minimum of sixty (60) Feet or may be reduced to a minimum of forty Feet (40) for over 55 housing at the Planning Boards discretion from adjacent properties, and one hundred (100) feet from adjacent surface waters or wetlands. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, where the sixty (60) foot buffer or forty Feet (40) for over 55 housing of natural vegetation is not adequate (in the Planning Board's opinion) to screen the development from adjacent properties the Board may require additional plantings, earth berms and/or fencing.
- B. **Building Envelope.** All site plans shall locate a building envelope radius of forty (40) feet or thirty Feet (30) for over 55 housing from the outside edge of a townhouse building or group of buildings. Open space, ways, lanes and collectors may not be located within the building envelope. Parking, driveways, sidewalks, individual unit gardens/lawns etc. may be developed within the building envelope. For the minimum setback between buildings see the following Subsection C.
- C. **Architectural style.** Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town, through the use of appropriate building materials, screening, breaks in roof and wall lines, setbacks and other architectural techniques. Variation in detail, style, form and location shall be used (for both the residential units and accessory garages if employed) to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings. Adequate separation shall mean a minimum distance of 1.2 times the height of the proposed buildings.
- D. **Roadways.** Roadway length and construction details are provided in the Townhouse Development Special Permit Rules and Regulations. The Board may require that existing problems on/or adjacent to the site be mitigated as a condition of approval of the special permit under this article.
- E. **Parking.** The development shall provide two (2) spaces per each unit, plus one (1) visitor parking space for every five (5) units, plus one (1) space for every two hundred (200) square feet of non-residential building area. In cases where the units are provided with a garage and two spaces for each unit on a driveway, the visitor spaces shall not be required. Parking areas shall be screened from public ways and adjacent or abutting properties by building location, fencing and/or dense plantings. Parking areas, including maneuvering space for parking and loading areas shall not be located within the required buffer areas. No parking shall be allowed on interior roadways.
- F. **Services.** Exposed storage areas, machinery, service areas, truck loading areas, adequate solid waste disposal facilities, utility buildings and structures and other unsightly uses shall be set back and/or screened to protect neighbors and future residents from said features. Electric, telephone, cable TV, and other such utilities shall be underground. An adequate water source for fire protection shall be provided.
- G. **Lighting.** No building/structure shall be floodlit. Drives, walkways, entryways, and parking areas shall not be illuminated by lights higher than fifteen (15) feet, which shall

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be shielded to have a total cutoff of all light at less than ninety (90) degrees and a beam cutoff less than seventy-five (75) degrees..

**§ 290-3-11.7. Decision.**

The Planning Board may approve, approve with conditions, or deny an application for a Townhouse Development, after considering the criterion set out in Article 5-3, and also assessing whether the Townhouse Development better promotes the objectives of § 290-3-10.1, herein, than would conventional development.

**§ 290-3-11.8. Relation to Other Requirements.**

The submittals and permits of this article shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-law.

**Part 4  
SPECIAL REGULATIONS**

Article 4-1

**MOBILE HOME PARKS (TRAILER PARKS)**

**§ 290-4-1.1. Purpose.**

The purpose of this mobile home by-law is to encourage the development and maintenance of attractive and appropriate sites for mobile homes, to protect the general health, safety and welfare of the inhabitants of the Town of Carver as well as the inhabitants of mobile home parks, and to preserve and enhance the environment of areas within such parks and of the areas adjacent to them. It is intent of this by-law to serve the needs of the elderly persons and the special permit granting authority may require the affirmative action of the operator of such mobile home park as a condition to the issuance of a special permit.

**§ 290-4-1.2. Special Permit.**

No mobile home shall be erected, established or located on a site for living purposes, except in an approved mobile home park. No mobile home park or trailer park shall be established or operated within the town unless a special permit has been issued by the Board of Appeals as special permit granting authority. Such a permit shall be conditional upon the issuance of such license from the Board of Health as required by the General Laws, and failure to obtain or to renew such license may suspend or void any special permit issued under this by-law.

**§ 290-4-1.3. Site Plan.**

A site plan shall be submitted with each application for a special permit for a mobile home park or for alteration, modification or extension of such a park and the approved site plan shall become a condition of any special permit. Said plan shall be prepared by a registered

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engineer or land surveyor in the form and quantity required by the special permit granting authority and shall indicate the following:

- A. Location of mobile home lots with mobile home pads, park streets, water and sewer systems and sites for individual sewage disposal systems and sources of water;
- B. Buffer zones, open space, recreation areas and parking spaces;
- C. Water courses, bodies of water, and locations of wetlands;
- D. Natural features;
- E. Abutting land with identification of the owners;
- F. Contour of the land area indicated at five (5) foot intervals. Where the proposed ground surface level is within six (6) feet of the high water elevation, the plan may be required to show the present and proposed contours at two (2) foot intervals;
- G. A separate sketch showing the relation of the surrounding road network. The north orientation of this sketch shall be the same as on the site plan.

#### **§ 290-4-1.4. Narrative Submittals.**

In addition to the plan set forth above, applicants for a special permit for a mobile park shall provide:

- A. Information as to the method of sewage disposal and the provision of water supply for domestic and fire protection purposes;
- B. A statement as to the existing use of adjacent undeveloped land if known;
- C. A certified report of a registered professional engineer indicating highest known groundwater elevation on the site within the last ten (10) years;
- D. A statement of proposed drainage systems, including storm drainage to contain runoff without flooding or erosion; and
- E. Such other information as the special permit granting authority may request or require in its rules and regulations.

#### **§ 290-4-1.5. Conditions.**

- A. No mobile home park shall be less than one hundred (100) acres and no single acre shall contain more than five mobile home lots.
- B. There shall be provision for central facilities for recreational and services available to all park residents.
- C. There shall be at least one off-street parking area provided for each mobile home lot.
- D. The area occupied by a mobile home pad, roofed accessory buildings and parking areas shall not exceed forty percent (40%) of the area of the mobile home lot.

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- E. No mobile home pad shall be located closer than fifteen (15) feet to the nearest mobile home lot line or park street and shall be setback at least thirty (30) feet from any abutting public street. No mobile home pad shall be located within one hundred (100) feet of any stream, pond, or wetland area.
- F. The mobile home park street system shall be consistent with the rules and regulations of the Planning Board for the subdivision of land to provide access to the public for public safety.
- G. Each mobile home lot shall have a minimum frontage of at least seventy five (75) feet on a mobile home park street.
- H. Where public water supply or public sewage system is available at or within the boundary of a mobile home park site, all permanent buildings within the site and all mobile home lots shall be required to be connected to such services.
- I. Mobile homes shall not be stored or displayed for sale unless mounted on a mobile home pad.

#### **§ 290-4-1.6. Open Space Requirements.**

A minimum of twenty five percent (25%) of the parcel shown on the Development Plan shall be contiguous open space, excluding required yards and buffer areas. Such open space may be separated by the road(s) constructed within the Mobile Home Park. Not more than twenty five percent (25%) of such open space shall be wetlands, as defined pursuant to G.L. c. 131, s. 40.

- A. The required open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
- B. The required open space shall remain unbuilt upon, provided that ten percent (10%) of such open space may be paved or built upon for structures accessory to the dedicated use or uses, bikepaths, and agriculture.
- C. Underground utilities to serve the mobile home park site may be located within the required open space.
- D. The required open space shall, at the owner's election, be conveyed to:
  - (1) the Town of Carver or its Conservation Commission;
  - (2) a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or
  - (3) a corporation or trust owned jointly or in common by the owners of units within the mobile home park. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the units in perpetuity. Maintenance of the open space and facilities shall be permanently guaranteed by such trust or corporation which shall provide for mandatory assessments for the maintenance expenses to

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each unit. Each such trust or corporation<sup>12</sup> shall be deemed to have assented to allow the Town of Carver to perform maintenance of the open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation<sup>13</sup> fails to complete such maintenance, the town may perform it. The owner of each unit shall be deemed to have assented to the town filing a lien against each lot in the development for the full cost of such maintenance, which liens shall be released upon payment to the town of same. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Zoning Board of Appeals for approval, and shall thereafter be recorded in the Registry of Deeds.

- E. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

#### Article 4-2

### UTILITIES

#### § 290-4-2.1. Storm Drainage.

##### A. General Approach:

- (1) A complete storm drainage system shall be laid out and of sufficient size as to permit unimpeded flow of all natural waterways, to provide adequate drainage of all portions of the site, and to prevent adverse impacts due to stormwater discharge from the site.
- (2) Stormwater from the site shall be recharged to the maximum extent feasible and as near to the runoff source as practicable. Open drainage systems that provide a high level of infiltration, require little maintenance, and result in a minimum of clearing and grading (such as grasses swales or undisturbed natural areas suitable to absorb stormwater) are generally considered superior to closed drainage systems. A series of multiple smaller drainage systems is preferable to a single larger facility.

##### B. Design Basis and Method:

- (1) Drainage systems shall be designed to comply with the following: Where the collection system conveys flows to a detention/retention system designed to

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12. Editor's Note: So in original; should be "corporation."

13. Editor's Note: So in original; should be "corporation."



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control the one hundred (100) year storm, the designer shall document how flows in excess of collection system capacity will be safely directed to the control device.

- (2) Calculations for the analysis of pre-and post-development peak flows at the property line, and for the design of detention/retention devices shall be developed using the Natural Resource Conservation Service (NRCS) TR-20 methodology.
  - (3) The development of runoff coefficients (e.g. for the Rational Method) and Runoff Curve Numbers (e.g. for TR-55 and TR-20 methodology) for post-development conditions shall be based on the assumption that the contributing watershed will be fully-developed.
- C. Separation between infiltration devices and septic systems: A note shall be added to the plan citing use and general location of dry wells, roof leaders and other individual on-site stormwater management systems in order to facilitate adequate separation for septic systems.
- D. Discharge onto abutting lots:
- (1) peak stormwater flows at the boundaries of the development shall not exceed peak flows prior to development measured in the same location, based on the two- (2), ten- (10), twenty-five- (25), and one hundred- (100) year, twenty-four hour design storms.
  - (2) Stormwater volumes shall be controlled so that there is no increased negative impact on any abutting property. No flow shall be conveyed over public ways, or over land of others.
- E. Storm drainage structures and appurtenances: The drainage collection system shall be designed to convey projected peak flow rates based upon the twenty-five- (25) year storm utilizing the Rational Method.

**§ 290-4-2.2. Emergency Services.**

- A. Emergency access roads shall be at least 12-feet wide, constructed of an all-weather surface, and cleared of obstructions to a distance of 4-feet on both sides. Gates, where required, shall be equipped with a standard Carver Fire Department lock.
- B. A Fire Protection Distribution System (FPDS) shall be provided when deemed necessary by the Special Permit Granting Authority (SPGA). The SPGA shall request written comments from the Carver Fire Department, prior to making a determination. The FPDS shall consist of water mains, hydrants, and appurtenances designed in accordance with the specifications adopted by the Carver Fire Department.
- C. A water supply conforming to NFPA 1231 shall be established on the plans for firefighting purposes when deemed necessary by the SPGA. The SPGA shall request written comments from the Carver Fire Department, prior to making a determination.

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## Article 4-3

**WATER RESOURCE PROTECTION****§ 290-4-3.1. Purpose.**

The purpose of this Article 4-3 is to protect the public health, safety, and welfare by preserving the quality of ground and surface water which provides existing or potential water supply for the Town's residents, cranberry growers, institutions and businesses.

**§ 290-4-3.2. Applicability.**

The provision of Article 4-3 shall not apply to land in agricultural use or land being constructed for agricultural use.

**§ 290-4-3.3. Prohibited Uses.**

The following uses are prohibited:

- A. Solid waste disposal facilities, including without limitation landfills and junk and salvage yards, that require a site assignment from the Board of Health under G.L. c. 111, s. 150A (the Landfill Site Assignment Law) and regulations adopted by the Department of Environmental Protection at 310 CMR 19.00;
- B. Storage of hazardous wastes in quantities as defined by the Massachusetts Hazardous Waste Management Regulations by a "large quantity generator" including without limitation chemical wastes, radioactive wastes and waste oil;
- C. Disposal of hazardous wastes;
- D. Disposal of snow that contains de-icing chemicals and that has been brought in from outside the District;

**§ 290-4-3.4. Uses Available by Special Permit.**

If, in the judgment of the Planning Board, the Design and Operation Standards in § 290-4-3.6 are satisfied, the following uses may be allowed upon issuance of a special permit from the Planning Board and subject to such conditions as the Board may impose. Failure to comply with the terms and conditions of a special permit shall be grounds for revocation of said permit.

- A. Any uses where more than 10,000 square feet of any lot would be rendered impervious (excluding roadways).
- B. Underground storage of petroleum and other refined petroleum products, including without limitation gasoline, waste oil, and diesel fuel, except within buildings which it will heat or where it currently exists. The Planning Board shall be notified prior to the replacement of any tanks. Replacement tanks shall be double walled (or current state of the art) tanks and shall be of the same gallonage or less. Larger tanks shall require a permit under this By-Law.

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- C. Storage of road salt or other de-icing chemicals in quantities greater than for normal household use;
- D. Manufacture, use, storage, or disposal of toxic or hazardous materials as part of a principal activity, excluding domestic activities, pesticide applications for normal agricultural use, and above-ground tanks for the storage of diesel fuel and gasoline; and
- E. Motor vehicle service stations, repair garages, car washes, truck or bus terminals, heliports (excluding helistops), airports, electronic manufacturing, metal plating, commercial chemical and bacteriological laboratories, and dry cleaning establishments using toxic or hazardous materials on site.

#### **§ 290-4-3.5. Special Permit Procedures.**

Any application for a special permit shall be made, reviewed and acted upon in accordance with the following procedures:

- A. Each application for a special permit shall be filed in writing with the Planning Board and shall contain a complete description of the proposed use, together with any supporting information and plans which the SPGA may require. Submissions should include appropriate data to provide a basis for reviewing the impact of the proposed activity on the aquifer.
- B. The Planning Board shall refer copies of the application to the Board of Health, Conservation Commission and the Department of Public Works, which shall review, either jointly or separately, the application and submit their recommendations to the Planning Board. Failure to make recommendations within 35 days of the referral of the application shall be deemed lack of opposition.
- C. After notice and public hearing, and after due consideration of the reports and recommendations of the local boards/departments, the Planning Board may grant such a special permit provided that it finds the proposed use:
  - (1) is in accordance with the provisions of § 290-4-3.6;
  - (2) is in harmony with the purpose and intent of this bylaw;
  - (3) is appropriate to the natural topography, soils and other characteristics of the site to be developed;
  - (4) will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area (i.e., quality, or quantity of groundwater); and
  - (5) will not adversely affect an existing or potential water resource.

#### **§ 290-4-3.6. Design and Operation Standards.**

- A. Provisions shall be made to adequately protect against toxic or hazardous materials discharge or loss through corrosion, accidental damage, spillage or vandalism, through such measures as provision for spill control in the vicinity of chemical or fuel delivery

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points, secure storage areas for toxic and hazardous materials, and indoor storage provisions for corrodable or dissolvable materials.

- B. No disposal of hazardous wastes within the Town shall occur. All provisions of G.L. c. 111, s. 150A (the Landfill Site Assignment Law) and G.L. c. 21C (the Massachusetts Hazardous Waste Management Act) shall be adequately satisfied.
- C. Fill material shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to ensure proper condition of the fill. The SPGA may require soils testing by a certified laboratory at the applicant's expense.
- D. For industrial and commercial uses, an emergency response plan to prevent contamination of soil or water in the event of accidental spills or the release of toxic or hazardous materials shall be submitted to the Planning Board, if deemed necessary, for approval prior to granting of a special permit. Recommendations of the Fire Department on said plan shall be sought.
- E. Periodic monitoring shall be required when the site location and land use activities indicate a significant risk of contamination to the water resource as determined by the Planning Board based upon recommendations of the Department of Public Works, Board of Health, and the Conservation Commission. Such monitoring may include analyses of water or soil for appropriate substances and installation of groundwater monitoring wells constructed and located as specified by the Department of Public Works, Board of Health, the Conservation Commission and the Planning Board. All monitoring wells must meet or exceed the proposed or current DEP design standards for monitoring well installation. All costs will be borne by the owner of the premises.
- F. All storm water runoff from impervious surfaces shall be recharged on-site unless in conducting site plan review it is determined that either recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Such recharge shall be by surface infiltration through vegetated surfaces unless otherwise approved by the Planning Board during site plan review. If dry wells or leaching basins are approved for use, they shall be preceded by oil, grease and sediment traps except for specific exemptions allowed by State statutes. Drainage from loading areas for toxic or hazardous materials shall be separately collected for safe disposal.

#### Article 4-4

### WETLAND DISTRICT

#### § 290-4-4.1. Purpose.

The purpose of the Wetland District is to insure that development of land within the district will not endanger the health, safety or welfare of the occupants of such land as well as the general public; and to encourage the most appropriate uses of land in Carver. The Wetland District is an overlay district and shall be superimposed over the other districts shown on the zoning map, as a recognition of special conditions which exist in the overlay district.

**§ 290-4-4.2. District Delineation.**

The Wetland District is defined as the area designated "Wetlands," shown on the Zoning Map.

**§ 290-4-4.3. Permitted Uses.**

Any use permitted in the underlying district of low flood-damage potential and causing no obstruction to flood flows, provided there are no structures, fill or storage of materials or equipment required, such as:

- A. Agricultural uses such as farming, grazing, truck farming, horticultural, and cranberry related activities.
- B. Forestry and nursery uses.
- C. Outdoor recreational uses of a passive and/or, non-commercial nature, including fishing, boating, play areas.
- D. Conservation of water, plant, wildlife.
- E. Wildlife management areas, foot, bicycle, and/or horse paths.
- F. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- G. Buildings lawfully existing prior to the adoption of these provisions.

**§ 290-4-4.4. Uses by Special Permit.**

Any use permitted in the underlying district may be permitted upon the issuance of a special permit by the Board of Appeals. Such special permit shall be subject to conditions determined by the Board of Appeals to be necessary to protect human life and property from the hazards of periodic flooding, to preserve the natural storage capacity of the floodplain, and to preserve and maintain the groundwater table and water recharge areas within the flood plain. No structure or building shall be erected, constructed, substantially improved, reconstructed, or otherwise created or moved; no earth or other materials dumped, filled, excavated or transferred, unless a special permit is granted by the SPGA.

- A. The proposed use shall comply in all respects to the provisions of the underlying district in which the land is located.
- B. Within 10 days of the receipt of the application, the Board of Appeals shall transmit one copy of the development plan to the Conservation Commission, Board of Health, and Town Engineer. No action shall be taken until reports have been received from the above boards or until 35 days have elapsed.
- C. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100 year flood.

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- D. All development, including structural and nonstructural activities, shall be in compliance with G.L. c. 131, s. 40 (the Wetlands Protection Act) pertaining to construction in wetland areas.

## Article 4-5

**PTCD - PLANNED TOURIST COMMERCIAL DISTRICT****§ 290-4-5.1. Purpose.**

The purpose of the Planned Tourist Commercial District (PTCD) is to encourage the appropriate use and development of land by providing for certain activities which have a unique relationship and demonstrated value to the town, to promote economic benefits for the residents of the town, to preserve existing cranberry growing activities, and to protect existing tourist oriented land uses from the adverse effect of development of a conflicting nature.

**§ 290-4-5.2. Applicability.**

The PTCD is defined as the area designated "Tourist-Commercial" shown on the Zoning Map. The PTCD shall be construed as an overlay district. All requirements of the underlying zoning district(s) shall remain in full force and effect, except where the requirements of the PTCD are more restrictive or provide for uses or structures not otherwise available in the underlying district; in such cases, the requirements of the PTCD shall supersede the underlying zoning regulations.

**§ 290-4-5.3. Uses in the PTCD.**

Symbols employed below shall mean the following:

Y - A permitted use.

N - An excluded or prohibited use.

SP - A use authorized under special permit as provided under Article 5-3.

<b>PRINCIPAL USE</b>	<b>PTCD</b>
Cranberry growing and related activities including structures, canals, dams, dikes, ditches, roadways and reservoirs	Y
Agricultural use not exempted by G.L. c. 40A, s. 3	Y
Commercial recreation, outdoors	SP
Demonstration tracts	SP
Hotel or motel	SP
Museums	SP
Places of assembly	SP

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PRINCIPAL USE	PTCD
Retail stores, service establishments, banks, gift shops, or restaurants, where each structure contains less than 5000 sq. ft. of floor area	SP
Multi-family dwellings, mobile homes, and all industrial uses	N
Recreational Tourist Railroad	SP

#### § 290-4-5.4. Special Permit Procedures.

The special permit granting authority shall be the Zoning Board of Appeals. Any special permit required under this Article 4-5 shall be in addition to, and separate from, any other special permit required under this By-Law. Such special permit may be granted after consideration of the criteria set forth in § 290-5-3.3, and after a finding that the proposed use or activity is appropriate and consistent with the conceptual plan for the PTCD.

#### § 290-4-5.5. Principal Use Limitation.

Not more than one principal use shall be conducted in any single structure.

### Article 4-6

#### WCF - WIRELESS COMMUNICATIONS FACILITIES OVERLAY DISTRICT

#### § 290-4-6.1. Purpose.

The purpose of this article is to establish areas in which wireless communications facilities may be provided while protecting Carver's unique community character. The WCF Overlay District has been created (a) to provide for safe and appropriate siting of wireless communications facilities consistent with the Telecommunications Act of 1996,<sup>14</sup> and (b) to minimize visual impacts from such facilities on residential districts and scenic areas within Carver.

#### § 290-4-6.2. Administration.

In accordance with the requirements of 47 USC s.332 c (7)(B), and until such requirements are modified, amended or repealed in regulating the placement, construction and modification of personal wireless service facilities, the administration of this article shall be undertaken in the following manner; it shall not unreasonably discriminate among providers of functionally equivalent services, and is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services. This article shall not regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communications Commission's regulations concerning such emissions.

<sup>14</sup> Editor's Note: See 47 U.S.C. § 521 et seq.

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**§ 290-4-6.3. Location.**

- A. The WCF District shall be located as follows: All of the Town of Carver.
- B. No wireless communication facility may be placed, constructed or modified except upon issuance of a special permit and site plan approval from the Zoning Board of Appeals, provided however that co-location on an existing WCF structure is allowed as-of-right where the existing structure is not being substantially altered.

**§ 290-4-6.4. Applicability.**

The WCF District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning shall remain in full force and effect, except as may be specifically superseded herein.

**§ 290-4-6.5. Submittal Requirements.**

- A. As part of any application for a special permit, applicants shall submit, at a minimum, the information required for site plan approval, as set forth herein at Article 3-1.
- B. An applicant for a special permit shall describe the capacity of the proposed facility, based upon current technology, including the maximum number and type of antenna arrays and dishes that the facility can accommodate, together with a description of the number and type of antenna arrays that are proposed to be authorized by the special permit application.

**§ 290-4-6.6. Special Permit.**

A wireless communications facility may be erected or modified in the WCF District upon the issuance of a special permit by the Board of Appeals if the board determines that the adverse effects of the proposed facility will not outweigh its beneficial impacts as to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:

- A. communications needs served by the facility;
- B. traffic flow and safety, including parking and loading;
- C. adequacy of utilities and other public services;
- D. impact on neighborhood character, including aesthetics;
- E. impacts on the natural environment, including visual impacts;
- F. potential fiscal impact, including impact on town services, tax base, and employment;
- G. new monopoles shall be considered only upon a finding that existing or approved monopoles or facilities cannot accommodate the equipment planned for the proposed monopole.



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**§ 290-4-6.7. Conditions.**

All wireless communications facilities shall be subject to the following conditions:

- A. To the extent feasible, service providers shall co-locate on a single facility. Monopoles shall be designed to structurally accommodate foreseeable users (within a ten (10) year period) where technically practicable.
- B. New free-standing facilities shall be limited to monopoles; no lattice towers shall be permitted. Monopole height shall not exceed 100 feet above mean finished ground elevation at the base of the mounting structure; provided, however, that a monopole may be erected higher than 100 feet where co-location is approved or proposed, not to exceed a height of 150 feet above mean finished ground elevation at the base of the mounting structure.
- C. Wireless communications facilities may be placed upon or inside existing buildings or structures, including water tanks and towers, church spires, electrical transmission lines, and the like. In such cases, the facility height shall not exceed two (2) feet above the height of the existing structure or building.
- D. All structures associated with wireless communications facilities shall be removed within one (1) year of cessation of use. The Board may require a performance guarantee to effect this result.
- E. To the extent feasible, all network interconnections from the communications facility shall be via land lines.
- F. Any tower shall be set back from property lines a distance of at least forty (40) feet, and from public ways and residential uses a distance of at least three (3) times the height of the tower.
- G. The facility shall minimize, to the extent feasible, adverse visual effects on the environment. The Zoning Board of Appeals may impose reasonable conditions to ensure this result, including painting, lighting standards, landscaping, and screening. Existing on-site vegetation shall be preserved to the maximum extent possible. Fencing may be required to control unauthorized entry to wireless communication facilities.
- H. Traffic associated with the facility shall not adversely affect public ways.
- I. The Board of Appeals has the authority to increase or decrease the setbacks and height limitations herein, if warranted by site specific conditions.

## Article 4-7

**LANDFILL OVERLAY DISTRICT****§ 290-4-7.1. Purpose.**

The purpose of the Landfill Overlay District (LOD) is to regulate Large Scale Ground Mounted Solar Photovoltaic Installations (LSGMSPI) within the LOD.

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**§ 290-4-7.2. Applicability.**

The LOD is defined as the area designated "Landfill Overlay District" shown on the Zoning Map. The LOD shall be construed as an overlay district. All requirements of the underlying zoning district(s) shall remain in full force and effect, except where the requirements of the LOD are more restrictive or provide for uses or structures not otherwise available in the underlying district; in such cases, the requirements of the LOD shall supersede the underlying zoning regulations.

**§ 290-4-7.3. Uses.**

Large Scale Ground Mounted Solar Photovoltaic Installations (LSGMSPI) shall be allowed within the LOD by Special Permit from the Planning Board. All requirements for LSGMSPI listed in §§ 290-3-6.3 to 290-3-6.7 of the Carver Zoning By Laws shall apply to a LSGMSPI in the Landfill Overlay District. However if the proposed LSGMSPI abuts a water body which is zoned residential, the Planning Board may waive the setback requirements from the water body not less than 100 feet.

## Article 4-8

**ADULT USES****§ 290-4-8.1. Purpose.**

This article is enacted pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interest of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of their deleterious effect on adjacent areas and in response to studies demonstrating their effect in generating crime and blight.

**§ 290-4-8.2. Adult Use Defined.**

For the purposes of this article, an "Adult Use" shall mean an adult bookstore, adult video store, and adult live entertainment establishment, and/or an adult motion picture theater.

**§ 290-4-8.3. Special Permit Required.**

No Adult Use may be established or operated without a special permit from the Board of Appeals, as set forth in § 290-2-2.3, the Table of Uses. Any commercial establishment or activity that promotes or portrays under the guise of entertainment or education, sexual abuse of or by or among men, women, and children, and any such abuse that threatens their health and the health of a community shall not be granted a special permit in the Town of Carver. Furthermore, any such commercial establishment or activity that violates the community standards of said Town shall not be granted a special permit in the Town of Carver.

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**§ 290-4-8.4. Location.**

No Adult Use may be located within one thousand (1,000) feet of another Adult Use, nor

- A. Within five hundred (500) feet from the nearest lot line of a Residential District.
- B. Within five hundred (500) feet from the nearest lot line of any establishment licensed under the provisions of G.L. c. 138, s. 12.
- C. Within one thousand (1,000) feet from the nearest lot line of a school, church, day care center, public beach, or playground.

**§ 290-4-8.5. Setback.**

Adult Uses and all advertising signs on the premises thereof shall not be located within fifty (50) feet of a public or private way and must be set back a minimum of fifty (50) feet from all lot lines.

**§ 290-4-8.6. Display of Adult Videos.**

No store which rents and/or sells videos shall have any adult videos openly displayed in the same public viewing area as non-adult videos. Said adult videos shall be displayed in a separate room from the non-adult videos, which is to be constructed to prevent the view of adult video stock by the general public unless they enter the room itself. Said enclosure shall have only one entrance and be located to ensure proper monitoring.

**§ 290-4-8.7. Lapse.**

A special permit for an Adult Use shall lapse within one (1) year, including the time required to pursue or await the determination of an appeal filed pursuant to G. L. c. 40A, s. 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

**§ 290-4-8.8. Limitation.**

No Special Permit may be granted hereunder to any person convicted of violating the provisions of G.L. c. 119, s. 63 or G.L. c. 272, s. 28.

## Article 4-9

**TATTOO PARLORS/BODY PIERCING****§ 290-4-9.1. Purpose.**

The purpose of this article is to establish areas in which Tattoo Parlors and Body Piercing establishments may be located while protecting the Town of Carver's unique community character.

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**§ 290-4-9.2. Operation.**

All such establishments shall operate in accordance with the rules set forth under 105 CMR 124 and the Town of Carver Zoning By-laws.

**§ 290-4-9.3. Special Permit Required.**

No Tattoo Parlor/Body Piercing may be established or operated without a Special Permit from the Planning Board, as set forth in Article 5-3. The Applicant shall also submit the necessary license(s) from the Board of Health with his application for the Special Permit. Any such establishment that violates the community standards of the Town shall not be granted a Special Permit.

**§ 290-4-9.4. Location.**

No Tattoo Parlor/Body Piercing may be located within any area not listed under § 290-2-2.3, Use Regulation Schedule.

**§ 290-4-9.5. Prohibited.**

Tattoo Parlor/Body Piercing shall not be located as a home occupation in the Town of Carver.

**§ 290-4-9.6. Limitation.**

No Special Permit may be granted hereunder to any person convicted of violating the provisions of G.L. c. 119, s. 63, or G.L. c. 272, s. 28.

## Article 4-10

**TEMPORARY USE OF MOBILE HOME****§ 290-4-10.1. [Conditions.]**

Upon written application by the owner of record of any lot in any district to the Building Inspector, a permit may be granted for use on said lot of only one mobile home unit as a temporary residence for not more than 60 days, provided said unit:

- A. Has adequate sanitary facilities approved in writing by the Board of Health;
- B. Is properly situated on said lot as required in writing by the Building Inspector;
- C. Is not objectionable by reason of noise, odor, or public nuisance.

**§ 290-4-10.2. [Permit; Renewal.]**

Upon written application by the owner of record of any lot in any district on which permanent dwelling is being or is to be constructed, or rebuilt, or remodeled by or for the owner of record, the Building Inspector shall issue a permit for use on that lot of one mobile

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home unit as a temporary residence for a period of not over six (6) months during such construction, rebuilding or remodeling, and such permit may be renewed if in the opinion of the Building Inspector the progress of the permanent dwelling justifies a second period of not over six (6) months. This permit shall be subject to the same conditions listed in § 290-4-10.1 of this By-Law, and its issuance shall be contingent upon the existence of a permit for the erection, rebuilding, or remodeling of a permanent building on the same lot.

**§ 290-4-10.3. [Business or Nonresidential Use Only.]**

On written application by the owner of record of any lot in a Commercial or Industrial District, the Building Inspector may issue a permit for the use on said lot of a unit as a temporary office for a business or other purposes upon such terms as the Building Inspector may require. No mobile home unit under this article shall be used for residential purposes.

Article 4-11

**SPECIAL REQUIREMENTS FOR REGISTERED MARIJUANA DISPENSARIES**

**§ 290-4-11.1. Purposes.**

- A. To provide for the establishment of Registered Marijuana Dispensaries in appropriate places and under strict conditions in accordance with the passage of the Humanitarian Medical Use of Marijuana Act, Massachusetts General Laws, Chapter 94C, App. 1-1,<sup>15</sup> as approved by the voters as Question #3 on the November, 2012 state ballot (hereinafter referred-to as the "Act").
- B. To minimize the adverse impacts of Registered Marijuana Dispensaries on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities.
- C. To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Registered Marijuana Dispensaries.

**§ 290-4-11.2. Applicability.**

- A. The commercial cultivation, unless it meets the requirements for an agricultural exemption under Massachusetts General Laws, Chapter 40A Section 3, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless a special permit for a Registered Marijuana Dispensary is issued under this Article 4-11.
- B. No Registered Marijuana Dispensary shall be established except in compliance with the provisions of this Article 4-11.
- C. Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

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15. Editor's Note: MGL c. 94C, Appendix §§ 1-1 to 1-17, added by Chapter 369 of the Acts of 2012, was repealed in 2017. See now MGL c. 94I for statutory provisions regarding medical use of marijuana.

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- D. If any provision of this article or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this article, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this article are severable.

### **§ 290-4-11.3. Definitions.**

**MARIJUANA** — The same substance defined as "marihuana" under Massachusetts General Laws, Chapter 94C.

**MARIJUANA FOR MEDICAL USE** — Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in the Act and Department of Public Health ("DPH") Regulations, 105 CMR 725.000<sup>16</sup>

**REGISTERED MARIJUANA DISPENSARY** — Shall mean a "Medical marijuana treatment center" to mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.

### **§ 290-4-11.4. Eligible Locations for Registered Marijuana Dispensaries.**

Registered Marijuana Dispensaries, other than agricultural operations meeting exemption standards under Massachusetts General Laws, Chapter 40A, Section 3, may be allowed by Special Permit from the Carver Planning Board in the Industrial "A" Zoning District provided the dispensary meets the requirements of this Article 4-11.

### **§ 290-4-11.5. General Requirements and Conditions for all Registered Marijuana Dispensaries.**

- A. All non-exempt Registered Marijuana Dispensaries shall be contained within a building or structure.
- B. No Registered Marijuana Dispensary shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet and must meet all local, state and federal building and health and safety standards.
- C. A Registered Marijuana Dispensary shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.

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16. Editor's Note: See now 935 CMR 501.000 et seq.

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- D. The hours of operation of Registered Marijuana Dispensaries shall be set by the Special Permit Granting Authority, but in no event shall said Facilities be open for retail business between the hours of 7:00 PM and 8:00 AM.
- E. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Registered Marijuana Dispensary.
- F. No Registered Marijuana Dispensary shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- G. Signage for the Registered Marijuana Dispensary shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height.
- H. Registered Marijuana Dispensaries shall provide the Carver Police Department, Building Commissioner and the Planning Board with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.

**§ 290-4-11.6. Special Permit Requirements.**

- A. A Registered Marijuana Dispensary shall only be allowed by special permit from the Carver Planning Board in accordance with Massachusetts General Laws, Chapter 40A, section 9, subject to the following statements, regulations, requirements, conditions and limitations.
- B. A special permit for a Registered Marijuana Dispensary shall be limited to one or more of the following uses that shall be prescribed by the Planning Board:
  - (1) cultivation of Marijuana for Medical Use (horticulture) except that sites protected under Massachusetts General Laws, Chapter 40A, Section 3 shall not require a special permit;
  - (2) processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products; and/or
  - (3) retail sale or distribution of Marijuana for Medical Use to Qualifying Patients and any other persons so permitted by DPH regulations.
- C. In addition to the application requirements set forth in §§ 290-4-11.5 and 290-4-11.6 of this Bylaw, a special permit application for a Registered Marijuana Dispensary shall include the following:
  - (1) the name and address of each owner of the dispensary;
  - (2) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;

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- (3) evidence of the Applicant's right to use the site of the facility for the facility, such as a deed, or lease;
  - (4) if the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, Administrators, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
  - (5) a certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;
  - (6) Proposed security measures for the Registered Marijuana Dispensary, including lighting, fencing, gates and alarms, and the like, to ensure the safety of persons and to protect the premises from theft.
- D. **Mandatory Findings.** The Planning Board shall not issue a special permit for a Registered Marijuana Dispensary unless it finds that:
- (1) the facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11;
  - (2) the facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
  - (3) the Applicant has satisfied all of the conditions and requirements of §§ 290-4-11.5 and 290-4-11.6 herein;
- E. **Annual Reporting.** Each Registered Marijuana Dispensary permitted under this Bylaw shall as a condition of its special permit file an annual report to and appear before the Special Permit Granting Authority and the Town Clerk no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
- F. A special permit granted under this article shall have a term limited to the duration of the applicant's ownership of the premises as a Registered Marijuana Dispensary. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Article 4-11.
- G. The Board shall require the applicant to post a bond or other form of security acceptable to the Board prior to obtaining a building permit. The purpose of the bond or other security is to cover costs for the removal of the Registered Marijuana Dispensary in the event the Town must remove the facility. The value of the bond or other security shall be based upon the ability to completely remove all the items noted in § 290-4-11.7B and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to meet the noted requirements. An incentive factor of 1.5 shall



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be applied to all bonds to ensure compliance and adequate funds for the town to remove the facility at prevailing wages.

**§ 290-4-11.7. Abandonment or Discontinuance of Use.**

- A. A special permit shall lapse if not exercised within one year of issuance.
- B. A Registered Marijuana Dispensary shall be required to remove all material, plants equipment and other paraphernalia:
- (1) prior to surrendering its state issued licenses or permits; or
  - (2) within six months of ceasing operations; whichever comes first.<sup>17</sup>

Article 4-12

**NON-MEDICAL MARIJUANA OVERLAY DISTRICT BYLAW**

**§ 290-4-12.1. Purpose.**

To provide for the placement of Non-Medical Marijuana Establishments, in accordance with An Act To Ensure Safe Access to Marijuana, c.55 of the Acts of 2017 and all regulations which have or may be issued by the Cannabis Control Commission, including, but not limited to 935 CMR 500.000 implementing this Act, in locations suitable for such uses, which will minimize adverse impacts of Non-Medical Marijuana Establishments on adjacent properties, residential neighborhoods, schools, playgrounds, public beaches and other locations where minors congregate by regulating the siting, design, placement, security, and removal of Non-Medical Marijuana Establishments.

**§ 290-4-12.2. Establishment.**

- A. There shall be two Non-Medical Marijuana Overlay Districts ("NMOD"); Non-Medical Marijuana Overlay District/Cultivation and Processing ("NMOD/CP") and Non-Medical Marijuana Overlay District/Retail ("NMOD/R"). The boundaries of both NMOD/CP and NMOD/R are shown on the Zoning Map on file with the Town Clerk and shall comprise the following parcels, as set forth on the maps of the Town Board of Assessors:

- (1) NMOD/CP:

Map	Lot	Ext	Map	Lot	Ext	Map	Lot	Ext	Map	Lot	Ext	Map	Lot	Ext
20	1		21	2	A	22	10		24	1		25	1	
	12						10	1		2			1	A
	13						11			3			2	N
	14						3			3	1		4	
	2						3	1		3	2		4	A

17. Editor's Note: Original Sec. 4970, Temporary Moratorium on Non-Medical or Recreational Marijuana Establishments, which immediately followed this subsection, expired 6-30-2019 and was deleted from the Zoning Bylaw 4-11-2023 ATM by Art. 34. See now Art. 4-12.

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Map	Lot	Ext	Map	Lot	Ext	Map	Lot	Ext	Map	Lot	Ext	Map	Lot	Ext
	2	1					3	A					4	B
	3						3	B					4	C
						22	4					25	5	
							5	A						
							5	B						
							5	C						
							5	D						
							5	E						
							7	A						

(2) NMOD/R:

Map	Lot	Ext	Map	Lot	Ext	Map	Lot	Map	Lot	Ext	Map	Lot	Ext	Map	Lot
94	6		95	4	A	98	6	126	21		127	A	3	128	1
	6	A		3			6-A		24			A	2		6
	5			3	A		4		25			A	1		7
	3			3	1		5		35			6			8
	2			7			3		36	1		8			
	1			1			1					10	1		
	11			6	A		8					10			
	13											11			
	9											12			
	8											21			
												22A	2		
												22A	1		

- B. Within the NMOD/CP and NMOD/R, all requirements of the underlying zoning district remain in effect, except where these regulations provide an alternative to such requirements. Land within the NMOD/CP and NMOD/R may be used for any state-licensed Non-Medical Adult Use Marijuana Establishment, in which case the requirements set forth in this article shall apply. Land in either the NMOD/CP and/or NMOD/R may be used for a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the NMOD/CP and/or NMOD/R are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the NMOD/CP and/or NMOD/R conflict with the requirements of the underlying district, the requirements of the NMOD/CP and/or NMOD/R shall control.

### § 290-4-12.3. Definitions.

Where not expressly defined in the Zoning Bylaws, terms used in this article of the Bylaw shall be interpreted as defined in G.L. c.94I and G.L. c.94G and any regulations issued by the Cannabis Control Commission implementing these laws, and otherwise by their plain language.

**INDEPENDENT TESTING LABORATORY** — Means a laboratory that is licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation

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of the Adult Use of Marijuana that is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c.94C, § 34.

**MARIJUANA CULTIVATOR** — Means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana to cultivate, process and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers.

**MARIJUANA DELIVERY-ONLY RETAILER** — Means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana that does not provide a retail location accessible to the public, but is authorized to deliver directly from a marijuana cultivator facility, craft marijuana cultivator cooperative facility, marijuana product manufacturer facility, or micro-business.

**MARIJUANA ESTABLISHMENT** — Means a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of marijuana-related business licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana.

**MARIJUANA PRODUCT MANUFACTURER** — Means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana Establishments and to transfer marijuana and marijuana products to other Marijuana Establishments, but not to consumers.

**MARIJUANA RETAILER** — Means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana to purchase and deliver marijuana and marijuana products from Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers.

**MEDICAL MARIJUANA TREATMENT CENTER** — Means an entity licensed by the Department of Public Health or the Cannabis Control Commission under a medical use marijuana license that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials for the benefit of registered qualifying patients or their personal caregivers in the treatment of debilitating medical conditions or the symptoms thereof.

#### **§ 290-4-12.4. Number of Licenses.**

Only 2 Marijuana Retailers will be allowed to operate in the NMOD/R at one time.

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**§ 290-4-12.5. Location and Dimensional Controls.**

- A. Non-Medical Marijuana Establishments may be permitted in the NMOD/CP and/or NMOD/R pursuant to a Special Permit and Site Plan Approval.
- B. Non-Medical Marijuana Establishments may not be located within 500 feet of the following pre-existing uses:
  - (1) Public or private school providing education in pre-school, kindergarten and/or grades 1 through 12;
  - (2) State-licensed Child Care Center, as defined in M.G.L. Chapter 15D; or
  - (3) Library, playground, public park, public beach, religious facility, youth center; or similar facility in which minors commonly congregate for a particular purposes in a structured and scheduled manner.

The distance under this section shall be measured in a straight line from the nearest point of the property line of the protected uses identified above to the nearest point of the property line of the proposed Non-Medical Marijuana Establishment.

- C. Cultivation and processing facilities located within the NMOD/CP shall be separated from adjacent uses by a 50-foot buffer strip, unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip.
- D. Non-Medical Marijuana Establishments shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery pursuant to applicable state regulations.
- E. Unless explicitly stated otherwise, Non-Medical Marijuana Establishments shall conform to the dimensional requirements applicable to non-residential uses within the underlying zoning district.
- F. Non-Medical Marijuana Establishments shall conform to the signage requirements of Article 3-5 of the Zoning Bylaw. The Planning Board may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.

**§ 290-4-12.6. Special Permit.**

- A. Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) and shall conduct Site Plan Review for an applicant for a Non-Medical Marijuana Establishment.
  - (1) Application: In addition to the materials submission requirements of Article 3-1 and Article 5-3, the applicant shall also include:
    - (a) A detailed floor plan of the premises of the proposed Non-Medical Marijuana Establishment that identifies the square footage available and describes the functional areas of the facility;
    - (b) Detailed site plans that include the following information:

- [1] Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, signage and all other provisions of this Bylaw;
  - [2] Convenience and safety of vehicular and pedestrian movement on the site to provide secure and safe access and egress for clients and employees arriving to and from the site;
  - [3] Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
  - [4] Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
  - [5] Site design such that it provides convenient, secure and safe access and egress for clients and employees arriving to and from the site.
  - [6] Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
  - [7] Adequacy of water supply, surface and subsurface drainage and light.
- (c) a description of the security measures, including employee security policies;
  - (d) a copy of the emergency procedures;
  - (e) a copy of proposed waste disposal procedures; and
  - (f) a copy of all licensing materials issued by the Cannabis Control Commission, and any materials submitted to these entities by the applicant for purposes of seeking licensing to confirm that all information provided to the Planning Board is consistent with information provided to the Cannabis Control Commission, as applicable.
  - (g) a notarized statement signed by the Non-Medical Marijuana Establishment organization's Chief Executive Officer disclosing all of its designated owners, including officers, directors, partners, managers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
- (2) The SPGA shall refer copies of the application to all Town departments and boards/commissions, including but not limited to the Building Department, Fire Department, Police Department, Board of Health, and the Conservation Commission.
  - (3) After notice and public hearing in accordance with Article 3-1 and Article 5-3 of the Bylaw and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit and request for site plan approval.

- B. Special Permit Conditions on Non-Medical Marijuana Establishments: The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this article. In addition to any specific conditions applicable to the applicant's Non-Medical Marijuana Establishment, the SPGA may include the following conditions in any special permit granted under this Bylaw:
- (1) Hours of Operation, but if none are specified in the special permit, hours of operation shall be limited to 9:00 a.m. - 8:00 p.m. Monday through Saturday and 12:00 p.m. to 6:00 p.m. on Sundays
  - (2) The use shall not generate outside odors from the cultivation or processing of marijuana and marijuana products.
  - (3) A Security Plan shall be required for all Non-Medical Marijuana Establishments, which shall be subject to approval by the Fire and Police Chiefs and submitted to the Planning Board.
  - (4) The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
  - (5) Non-Medical Marijuana Establishment may not operate, and the special permit will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the facility.
  - (6) Non-Medical Marijuana Establishments may not operate, and the special permit will not be valid, until the applicant has entered into a Host Community Agreement with the Town relative to any facility permitted under this Bylaw.
  - (7) A special permit granted under this article shall have a term limited to the duration of the applicant's ownership and use of the premises as a Non-Medical Marijuana Establishment. A special permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special permit.
  - (8) The special permit shall lapse upon the expiration or termination of the applicant's license by the Cannabis Control Commission.
  - (9) The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the Non-Medical Marijuana Establishment's expiration or termination of the permit holder's license with the Cannabis Control Commission.
  - (10) No outside storage is permitted.
  - (11) If the applicant is not the owner of the property, the applicant shall supply express written permission from the property owner.

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- (12) Unless otherwise specified in the special permit, marijuana cultivators shall use organic fertilizer.

**§ 290-4-12.7. Prohibition Against On-Site Consumption.**

No marijuana shall be smoked, eaten, or otherwise consumed or ingested in public or on the premises of a Non-Medical Marijuana Establishment absent a positive vote by ballot question presented to the voters of the city or town at a biennial state election pursuant to G.L. c.94G, s.3(b).

**§ 290-4-12.8. Prohibition Against Nuisances.**

No use shall be allowed in the MOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

**§ 290-4-12.9. Abandonment and Discontinuance of Use.**

- A. A Non-Medical Marijuana Establishment shall be required to remove all material, plants, equipment, signs and other paraphernalia upon registration or licensure revocation, expiration, termination, transfer to another controlling entity relocation to a new site and any other cessation of operation as regulated by the Cannabis Control Commission. Such removal will be in compliance with 105 CMR 725.105 (J), (O.)<sup>18</sup> and regulations from the CCC; and
- B. A Special Permit granted hereunder shall lapse if the applicant ceases marijuana establishment operations for a period of ninety (90) days and/or if the applicant's license by the Cannabis Control Commission has been revoked, expires, is terminated, is transferred to another controlling entity or is relocated to a new site;

**Part 5  
ADMINISTRATION**

Article 5-1  
**ADMINISTRATION**

**§ 290-5-1.1. Permits.**

This By-Law shall be administered by the Building Inspector. Pursuant to the State Building Code, the Building Inspector may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use without written certification by the

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<sup>18</sup>. Editor's Note: See now 935 CMR 500.000 et seq.

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Building Inspector that such action is in compliance with then-applicable zoning, and that all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as such certification.

### **§ 290-5-1.2. Enforcement.**

The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Select Board to Town Counsel.

### **§ 290-5-1.3. Penalties.**

The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be up to three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

## Article 5-2

### **BOARD OF APPEALS**

#### **§ 290-5-2.1. Establishment.**

There is hereby established a Board of Appeals which shall consist of five (5) members and two (2) associate members, who shall be appointed and act in all matters under this By-Law in the manner prescribed in G.L. c. 40A.

#### **§ 290-5-2.2. Powers.**

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-Law. The Board's powers are as follows:

- A. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Article 5-3, or as otherwise specified.
- B. To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances in any zoning district of the Town.
- C. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.
- D. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.



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**§ 290-5-2.3. Public Hearings.**

The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws, with regard to all appeals and petitions brought before it.

## Article 5-3

**SPECIAL PERMITS****§ 290-5-3.1. Special Permit Granting Authority (S.P.G.A.).**

Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.

**§ 290-5-3.2. Governance.**

Special permit applications and decisions shall be governed by the filing and public hearing requirements set forth in G.L.c. 40A, s.9. The S.P.G.A. shall have the ability to adopt rules and regulations governing the granting of special permits following the procedures set forth in G.L.c.40A.

**§ 290-5-3.3. Criteria.**

Special permits may be granted by the S.P.G.A. upon its written determination that benefits of the proposed use outweigh its detrimental impacts on the town and the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any criteria set forth in specific provisions of this by-law, the determination shall include consideration of each of the following:

- A. Social, economic, or community needs which are served by the proposal;
- B. Traffic flow and safety, including parking and loading;
- C. Adequacy of utilities and other public services;
- D. Neighborhood character and social structures;
- E. Impacts on the natural environment;
- F. Potential fiscal impact, including impact on town services, tax base, and employment.

**§ 290-5-3.4. Procedures.**

Whenever an application for a special permit is filed with a S.P.G.A., the applicant shall also file, within three (3) working days of the filing of the completed application with said authority, copies of the application, accompanying site plan, and other documentation, to the Board of Health, Conservation Commission, Building Inspector, Director of Public Works, Police Chief, Fire Chief, and the Town Planner for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. An application shall not be deemed complete until all copies of required information and

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documentation have been filed with the S.P.G.A. Said authority shall notify applicants by registered mail, within 14 days of submittal, of incomplete application status, and the applicant shall have 14 days from the mailing of such notice to complete an application. Failure to either complete an application within such time or to request permission to withdraw the incomplete application without prejudice prior to the publication of the notice of the public hearing thereon, shall result in a denial of the application on the ground that it is incomplete. Reports from other boards and officials shall be submitted to the S.P.G.A. by the date of the public hearing, but in any case within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the S.P.G.A. is held prior to the expiration of the 35 day period, said authority shall continue the public hearing to permit the formal submission of reports and recommendations within that 35 day period. The Decision/Findings of the S.P.G.A. shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

#### **§ 290-5-3.5. Chapter 43D Priority Development Sites.**

- A. For uses and structures available by a special permit where the Zoning Board of Appeals serves as the special permit granting authority as well as site plan review by the Planning Board, the respective processes shall run concurrently and provisions shall be made for joint public hearings.
- B. Upon determination of completeness, copies of the application, accompanying site plan and other documentation shall be forwarded to the Board of Health, Conservation Commission, Building Commissioner, Director of Public Works, Police Chief, Fire Chief, and the Town Planner for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the SPGA by the date of the public hearing, but in any case within twenty- one (21) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. The Decision/Findings of the SPGA shall contain, in writing, and explanation for any departures from the recommendations of any reviewing party.

#### **§ 290-5-3.6. Conditions.**

Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the S.P.G.A. may deem necessary to serve the purposes of this By-Law.

#### **§ 290-5-3.7. Plans.**

An applicant for a special permit shall submit a plan in substantial conformance with the requirements of §§ 290-3-1.2 and 290-3-1.3, herein.

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**§ 290-5-3.8. Lapse.**

Unless otherwise noted herein, special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

**§ 290-5-3.9. [Planning Board Associate Member.]**

The Planning Board shall have one Associate Member, who shall be eligible to participate in matters in which the Planning Board is acting as the Special Permit Granting Authority, in accordance with G.L. c. 40A, § 9. The Associate Member shall be appointed for a three-year term by majority vote of the Select Board and the Planning Board, each person having one vote. The chairman of the Planning Board may designate the Associate Member to sit on the Planning Board for the purposes of acting on a special permit application in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Planning Board.

## Article 5-4

**AMENDMENTS****§ 290-5-4.1. State law.**

This by-law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

## Article 5-5

**APPLICABILITY****§ 290-5-5.1. Other Laws.**

The provisions of this by-law shall not be abrogated by any private restriction, easement, covenant or agreement relative to the use of land governed hereunder. This by-law shall not interfere with any other town by-law, rule or regulation which is more restrictive; where this by-law is more restrictive, it shall control.

**§ 290-5-5.2. Conformance.**

Construction or operations under a Building Permit shall conform to any subsequent amendment of this by-law unless the use or construction is commenced within a period of six (6) months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

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Article 5-6

**SEPARABILITY****§ 290-5-6.1. Severability.**

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision herein.

**Part 6**  
**DEFINITIONS**

**§ 290-6.1. Intent; word usage and interpretation.**

- A. The intent of this article is to provide definitions for certain terms, words and/or series of words which are to be utilized in the interpretation of this by-law, whether or not the definition stated herein is contrary to common usage or contrary to the definition as contained in a dictionary.
- B. For the purpose of this by-law and unless the context of usage clearly indicates another meaning, the following terms shall have the meanings indicated herein; words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used" or "occupied" include the words "designed", "arranged", "intended", or "offered", to be used or occupied; the words "building", "structure", "lot", "land", or premises shall be construed as though followed by the words "or any portion thereof"; and the words "shall" is mandatory and directory, and "may" is permissive. Any word indicating gender, such as he or she, shall be construed to mean both genders.
- C. Terms and words not defined herein but defined in the Commonwealth of Massachusetts Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either this by-law or the State Building Code shall have the meaning given in the most recent edition of Webster's Unabridged Dictionary. Uses listed in the Table of Use Regulations under the categories "Commercial" and "Industrial" shall be defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

**§ 290-6.2. Terms defined.**

The defined words and phrases are as follows:

**ACCESS** — A way or means of approach to provide vehicular or pedestrian entrance or exit to a property.

**ACCESS CONNECTION** — Any driveway, street, curb cut, turnout or other means of providing for the movement of vehicles to or from the public/private roadway network.

**ACCESSORY APARTMENT** — Shall mean a dwelling unit of not more than 800 sq. ft., located in an existing residential structure in accordance with the provisions of § 290-2-2.6, herein.

**ACCESSORY BUILDING OR STRUCTURE** — Shall mean a building or structure subordinate to a principal building or structure and customarily used to serve the purposes of that principal building. A building is accessory only where a principal building exists on the same lot. No accessory building or structure may be higher than twenty feet, or ten feet less than the height of the principal building or structure on the lot, whichever is greater except that a structure or structures such as a water tower or tank used for potable water supply or fire protection purposes for a nonresidential use shall not be subject to such height limitation in the Green Business Park. An accessory building serving the needs of residents of a dwelling may include the following:

- A. Garage; tool shed; shop; well house; not exceeding a floor area of 700 square feet.
- B. Barn or building used to house animals or poultry and not exceeding a floor area of 600 square feet.

**ACCESSORY DWELLING UNITS ABOVE COMMERCIAL DEVELOPMENTS** — Shall mean an incidental residential unit(s) of a minimum of 1,000 sq. ft., located in a commercial building in accordance with the provisions of § 290-2-2.7, herein.

**ACCESSORY USE** — Shall mean a use customarily incidental to and located on the same lot with the principal use. A use is accessory only where the principal use it serves exists on the same lot.

**ADULT USE** — [The definition of adult use includes the following types of establishments.]

- A. **ADULT BOOKSTORE** — Shall mean an establishment having as a substantial or significant portion of its stock in trade books, magazines, and other matters which are distinguished as characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, § 31.
- B. **ADULT DANCE CLUB** — Shall mean an establishment which, as its principal form of entertainment, permits a person or persons to perform in a state of nudity as defined in M.G.L. c. 272, § 31.
- C. **ADULT LIVE ENTERTAINMENT ESTABLISHMENT** — Shall mean an enclosed building used for presenting live entertainment featuring nude or semi-nude dancing, or any other live entertainment distinguished by an emphasis on matters depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.
- D. **ADULT MOTION PICTURE THEATER** — Shall mean an enclosed building or any portion thereof used for presenting material (motion picture films, video cassettes, cable television, slides or any other such visual media) distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L.c. 272, s.31.
- E. **ADULT VIDEO** — Shall mean a video which is distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L.c. 272, s. 31.
- F. **ADULT VIDEO STORE** — Shall mean an establishment having as a substantial or significant portion of its stock in videos, and other matter which are distinguished or

characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31.

**AGRICULTURAL USE** — Shall mean the raising of animals, fruits, vegetables, berries, nuts, or other food for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery, or greenhouse products, and ornamental plants and shrubs, or the raising of forest products under a planned program; or the primary and direct use in a related manner which is incidental thereto and represents a customary and necessary use in raising such products and preparing them for market.

**AIRPORT** — Any area of land designed and set aside for landing and take-off of aircraft, including all necessary facilities for housing and maintenance of aircraft.

**ANIMAL CLINIC OR HOSPITAL** — Shall mean a place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

**ASSISTED ELDERLY HOUSING** — Shall mean a residential facility occupied by persons over the age of 55, their spouses or surviving spouses, including rooms occupied by resident staff personnel. Such a facility may include a full range of nursing care from total to partial assistance, and may provide food preparation services, limited residential food preparation areas, and common recreational, laundry, social, medical, religious, and service facilities for the exclusive use of the residents.

**ATM** — Shall mean a device whether attached to a structure or free standing, for the dispensing of money and the conducting of financial transactions. ATMs located within a building shall be considered accessory to the principal use unless the ATM is likely to be an independent traffic generator.

**BANK** — Shall mean an establishment for the conduct of financial transactions including the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds.

**BED AND BREAKFAST** — Shall mean a private owner-occupied residence in which lodging and breakfast are offered to transients for a fee. Such a facility shall not contain more than seven (7) rooms for rent.

**BEDROOM** — The term bedroom includes any room principally for sleeping purposes, which can be closed off by means of a door and includes a closet.

**BILLBOARD** — Outdoor advertising on a board, poster, panel structure or device of any kind used or intended to be used for advertising or display painted thereon, or for the affixment, attachment or support of printed posters or other advertising matter, and constructed, erected and located on any premises or applied directly and or attached to a wall or placed on a roof of a building or structure not owned or occupied by the person for whose use such billboard is constructed, erected, located or attached, and when used for purposes other than advertising the business conducted on such premises or in such building or structure. Such outdoor advertising constructed, erected and located as aforesaid used for the purpose of advertising the business conducted on a premise or in a building or structure shall be deemed a sign.

**BITUMINOUS CONCRETE OR CONCRETE BATCHING PLANT** — Shall mean a manufacturing facility where a hard strong building material is produced by mixing a

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cementing material (such as portland cement) and a mineral aggregate (such as sand and gravel) with sufficient water to cause the cement to set and bind the entire mass.

**BODY PIERCING** — Shall mean the puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornments thereto into the opening. This definition includes piercing of the outer perimeter of the ear, but does not include piercing of the earlobe with presterilized single-use stud-and-clasp ear-piercing systems.

**BUFFER STRIP OR BUFFER ZONE** — Shall mean an area of indigenous or planted vegetation which shall separate the structures and uses within a development from any adjacent properties and public ways. No vegetation shall be removed from this buffer zone after development, nor shall any building or structure be placed therein.

**BUILDING** — Shall mean a structure adapted to permanent or continuous occupancy for assembly, business, professional, education, industrial, institutional, residential, or storage purposes, and the term "building" shall be construed as if followed by the words "or portion thereof".

**BUILDING FOOTPRINT** — Shall mean the area enclosed by the structural foundation, not including stairwells or protruding windows.

**BUILDING HEIGHT** — Shall mean the vertical distance from the mean finish grade of the ground adjoining the building at the street side to the highest point of the ridge.

**BUILDING, PRINCIPAL** — Shall mean the building in which is conducted the principal use of the lot on which said building is located.

**CAMPGROUND ROADS**

- A. **ACCESS** — The way which leads from the street, as herein defined, to the main office/facility.
- B. **SERVICE** — Ways serving the campsites and different areas within the campgrounds, main service being a two-way collector and minor service being a one-way minor.
- C. **EMERGENCY** — Way to be used exclusively for emergency vehicles and gated if necessary.

**CAMPGROUND, NET USABLE LAND AREA (NULA)** — The NULA acreage is established by subtracting all water bodies, wetlands, marshes, bogs, land actively mined, buffers, easements, slopes over 25%, land within a sixty-five (65) foot wetland buffer area to these regulated lands and any other land legally restricted from development.

**CAR WASH** — Shall mean:

- A. An area of land and/or a structure with machine, or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing, of motor vehicles.

- B. A building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor.

**CEMETERY** — Shall mean land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

**CHANGE OR SUBSTANTIAL EXTENSION OF A NONCONFORMING USE** — Shall mean change to a use that does not reflect the 'nature and purpose' of the use prevailing when the zoning by-law took effect; or change so as to create a difference in the quality or character, as well as the degree, of use; or change 'different in kind in its effect on the neighborhood'. See *Town of Bridgewater v. Chuckran*, 351 Mass. 20, 23 (1966).

**COMMERCIAL RECREATION, OUTDOORS** — Shall mean drive-in theatre, golf course/driving range, miniature golf course, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this By-law.

**COMMERCIAL RECREATIONAL CAMPGROUND** — A parcel or contiguous parcels of land upon which campsites are located, established, and maintained for occupancy by campers or recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes from May 1 to November 1 for commercial purposes.

**CONTRACTOR'S YARD** — Shall mean premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking or wheeled or portable equipment.

**COPY SHOP** — Shall mean a place which provides photocopying, blueprinting or binding services to the public, but does not include printing presses or silk screening.

**CRAFTSMAN/TRADESMAN** — Shall mean retail and/or service provided by a worker who practices a trade or handicraft, one who creates or performs with skill or dexterity especially in the manual arts, such as a jeweler, cabinet maker, frame person.

**CRANBERRY RECEIVING STATION** — Shall mean a facility for receiving, processing<sup>19</sup> for storage, and storing of cranberries, including principal buildings, accessory buildings, structures and other land improvements relating to such a facility. Notwithstanding any other provision of this by-law, such a facility when located within the RA District, shall be situated on a parcel of not less than 100 acres, with minimum frontage of 300 feet, minimum front, side and rear yards of 100 feet, maximum building height of 2.5 stories and 40 feet, maximum lot coverage by buildings of 50%, driveways with a minimum width of 22 feet and a maximum width of 30 feet, and a buffer strip of not less than 100 feet in width along the perimeter of the parcel.

**CROSS ACCESS** — A service drive providing vehicular and pedestrian access between two or more contiguous sites so the driver need not enter the public street system.

**DEMONSTRATION TRACT** — Shall mean cranberry cultural activities, forestry, wildlife, exhibition sawmill and similar activities, primarily intended for tourist or educational purposes.

<sup>19</sup> Editor's Note: So in original; should be "processing."



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**DEVELOPMENT RIGHTS** — Shall mean rights to develop a single-family house lot, expressed as the maximum number of lots permissible on a designated sending parcel(s) under the applicable zoning and subdivision rules and regulations in effect on the date of the transfer of development rights. Development rights (house lots) are computed on a one-for-one-basis. Determination of the maximum number of development rights (house lots) available for transfer shall be made by the Planning Board.

**DIRECTIONAL MEDIAN OPENING** — An opening in a restrictive median which provides for the specific movements and physically restricts other movements. Directional median opening for two opposing left or "U-turn" movements along a road segment are considered one directional median opening.

**DRIVE-THROUGH FACILITY** — A commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premise and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle. This shall not include the selling of fuel at a gasoline filling station or the accessory functions of a carwash facility such as vacuum cleaning stations.

**DRIVEWAY/CURB CUT SPACING** — The distance between connections, measured from the closest edge of pavement of the driveway or curb cut to the next closest edge of the pavement along the public/private roadway.

**DUPLEX OR TWO-FAMILY DWELLING** — A building containing two (2) dwelling units attached, designed or arranged as separate housekeeping units within the dwelling.

**DWELLING** — Shall mean any building containing one or more dwelling units, but excluding mobile homes.

**DWELLING UNIT** — Shall mean a building or part of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a single housekeeping unit with its own cooking, living, sanitary and sleeping facilities.

**DWELLING, DETACHED SINGLE-FAMILY** — Shall mean a dwelling containing not more than one (1) dwelling unit.

**DWELLING, MULTI-FAMILY** — Shall mean a single building containing at least three (3) dwelling units, but not more than five (5) units.

**DWELLING, TWO-FAMILY** — Shall mean a single building containing two (2) dwelling units.

**EARTH REMOVAL** — Shall mean the removal of clay, gravel, sand, sod, loam, soil, stone or other earth materials; provided, however, that the moving of earth materials under the provisions of a duly approved subdivision plan. Work necessary for the construction of streets and the installation of utilities; work in connection with the excavation and grading of land incidental to construction of a duly permitted structure; and work performed in normal cranberry related maintenance or improvement of contiguous or non-contiguous land for agricultural purposes, shall not constitute earth removal.

**ESSENTIAL SERVICES** — Shall mean services provided by a public utility or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems; and collection, communication (but not including wireless communication systems), supply, or disposal

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systems whether underground or overhead. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

**FACADE** — Shall mean the exterior surface of a building.

**FAMILY** — Shall mean a number of individuals living and cooking together on the premises as a single unit.

**FARM STAND** — Shall mean a structure of semi-permanent or temporary type located in a district in which agricultural uses are allowed, from which raw products are offered for sale to the public.

**FRONTAGE** — Shall mean the boundary of a lot coinciding with the street line, being an unbroken distance along a way currently maintained by the town, county, or state, or along ways shown on the Definitive Plans of approved subdivisions, through which actual access to the potential building site shall be required. A private way which has not been constructed as part of a subdivision approved in accordance with the subdivision control law may provide frontage only upon a determination by the Planning Board that it provides adequate access for fire, police, and emergency vehicles. Lot frontage shall be measured continuously along one street line between side lot lines, or, in the case of corner lots, between one side lot line and the mid-point of the corner. Lots with interrupted or discontinuous frontage must demonstrate that the required length along the street may be obtained from one (1) continuous frontage section, without any totalling of discontinuous frontage sections.

**GROSS FLOOR AREA** — Shall mean the floor area of all floors within the perimeter of the outside walls of the building under consideration without deduction for hallways, stairs, closets, thickness of walls, columns, or other features.

#### **GROSS LIVING AREA**

- A. The sum of the areas of each floor in a building measured from the exterior faces of exterior walls or from the center lines of party walls.
- B. Gross living area includes the area at each floor in the structure except:
  - (1) Exterior decks and porches not enclosed by walls
  - (2) Unfinished cellar space
  - (3) Garage areas
  - (4) Stairwells
  - (5) Unfinished Attics

**HAZARDOUS MATERIAL** — A product, waste or combination of substances which because of its quantity, concentration, or physical, chemical, toxic, radioactive or infectious characteristics may reasonably pose a significant, actual, or potential hazard to human health, safety, welfare, or the environment when improperly treated, stored, transported, used, disposed of, or otherwise managed. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as "toxic" or "hazardous" under Massachusetts General Laws (MGL)

Chapters 21C and 21E using the Massachusetts Oil and Hazardous Material List (in 310 CMR 40.0000).

**HAZARDOUS WASTE** — Shall mean materials as defined and regulated by 310 CMR 30.00 et seq. (Massachusetts Hazardous Waste Management Regulations)

**HELIPORT-LIMITED USE** — Shall mean any landing area used for the landing and taking off of helicopters, including necessary passenger and cargo facilities, fueling, and emergency service facilities.

**HELIPORT-UNLIMITED USE** — Shall mean any landing area used by helicopters which, in addition, includes all necessary passenger and cargo facilities, maintenance and overhaul, fueling, service, storage, tie-downs areas, hangars, and other necessary buildings and open spaces.

**HOSPITAL** — Shall mean:

- A. An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in a surgery, obstetrics, and general medical practice.
- B. An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

**HOTEL OR MOTEL** — Shall mean a building or group of buildings providing accommodations on a transient basis for compensation, not meeting the definition of "Non-family Accommodations". Accommodations having individual kitchen facilities (sink, range, and refrigerator) shall be considered dwelling units.

**IMPERVIOUS SURFACE** — Shall mean material covering the ground, including but not limited to macadam, concrete, pavement, and buildings, that does not allow surface water to penetrate into the soil (cranberry bogs are not considered impervious surfaces.)

**JOINT ACCESS (OR SHARED ACCESS)** — A driveway connecting two or more contiguous sites to the public/private street systems.

**JUNKYARD OR AUTOMOBILE GRAVEYARD** — Shall mean the outdoor use of any area of any lot for the storage, salvage, keeping or abandonment of junk, scrap, or discarded materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

**KENNEL** — Shall mean a single premises with a collection of up to five (5) dogs, three months or older, that are maintained for breeding, boarding, sale, training, hunting, or any other purpose.

**KENNEL, COMMERCIAL** — Shall mean a single premises with a collection of eleven (11) or more dogs three months or older, that are maintained for any purpose, or where four (4) or more litters per year are raised, or where the boarding or grooming of dogs is performed as a business.

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**KENNEL, HOBBY** — Shall mean a single premises with a collection of six (6) to ten (10) dogs, three months or older, that are maintained for any purpose, and where fewer than four (4) litters per year are raised. Except for a collection of six (6) to ten (10) dogs owned by a single individual, and permanently maintained on the premises as pets, all of which are spayed or neutered, shall not be considered a hobby kennel.

**KITCHEN FACILITIES** — A sink with plumbing, a stove or cooking range<sup>20</sup> and refrigerator.

**LANDSCAPING BUSINESS** — Shall mean a business performing improvements to the grass, shrubs and/or trees of land, including pedestrian walkways, flowerbeds, ornamental objects, and other items.

**LIGHT MANUFACTURING** — A use which accommodates low impact industrial development where little or no nuisance effects are generated.

**LOADING SPACE** — Shall mean an off-street space for the regular receipt or distribution of materials or merchandise by vehicles to or from a building other than a single or two-family dwelling.

**LOT** — Shall mean a single area of land in one ownership defined by metes and bounds or boundary lines in a recorded deed or on a recorded plan. The lot shall only incorporate land in the Town of Carver.

**LOT LINE** — Shall mean a line which separates one or more lots or a lot and a street.

**LOT SHAPE** — Shall mean lots that are so distorted in configuration as to be detrimental to public health, safety, welfare or convenience, even though complying with the dimensional requirements established herein, and shall not be allowed. The minimum width of a lot from the front setback line to the rear house line shall be not less than 75 feet. The 75 ft. minimum shall not apply to rear lots, village districts or TDR overlay areas. Any lot to be created having frontage on an existing or proposed roadway, must meet the minimum lot size requirement for the zoning district it is located, minus any easements and/or right of ways, except those for a governmental agency or public utility.

**LOT WIDTH** — Shall mean the width of a lot in the Town of Carver, as measured at the front line of the principal building thereupon, or at such other location as may be designated by this by-law.

**LOT, CORNER** — Shall mean a lot in the Town of Carver at the junction of and fronting on two (2) or more intersecting streets.

**LOT, REAR** — Shall mean any lot in the Town of Carver meeting the requirements of § 290-2-3.4.

**MAJOR COMMERCIAL PROJECT** — Shall mean one or more buildings containing allowed or allowable nonresidential or nonagricultural uses with the following:

- A. 25,000 or more square feet of building floor space in the HC, IA and IB Districts;
- B. 10,000 or more square feet of building floor space in the GB District; or

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<sup>20</sup>. Editor's Note: So in original; should be "range."

C. 2,000 or more square feet of building floor space in the V District

**MAJOR RECREATIONAL EQUIPMENT** — Shall mean boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for the transportation of recreational equipment, whether occupied by such equipment or not.

**MANUFACTURING** — A use engaged in the basic processing and production of materials, or created from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

**MAXIMUM GROUNDWATER ELEVATION** — Shall mean the height of the groundwater table when it is at its maximum level or elevation. This level is usually reached during the months of December through April and allowances should be made therefore at other times of the year.

**MINIATURE GOLF** — Shall mean a novelty version of golf played with a putter and golf ball on a miniature course and featuring obstacles such as alleys, bridges, and tunnels.

**MOBILE HOME** — Shall mean a dwelling unit on a chassis and containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation or permanent living quarters.

**MOBILE HOME LOT** — Shall mean a parcel of land within a mobile home park provided for a single mobile home.

**MOBILE HOME PAD** — Shall mean that area of a mobile home lot which has been reserved for the placement of a mobile home.

**MOBILE HOME PARK OR TRAILER PARK** — Shall mean any lot or tract of land of not less than twenty (20) acres, exclusive of roads and areas provided for recreation, services and other such permanent installation within the park, under single or common ownership or control, and which contains, or is designed, laid out or adopted to accommodate mobile homes occupied or intended for occupancy as living quarters.

**MOTOR VEHICLE BODY REPAIR** — An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicles, including fenders, bumpers and similar components of motor vehicle bodies, but not including the storage vehicles for the cannibalization of parts or fuel sales.

**MOTOR VEHICLE SERVICE STATION** — Shall mean a building or part thereof with no more than two (2) service bays whose activity (whether or not an accessory use) is the selling of gasoline, oil and related products for motor vehicles or the provision of lubricating service, car washing services or auto repair limited to: tire servicing and repair, but not recapping or regrooving, replacement of miscellaneous parts and minor adjustments.

**MUNICIPAL FACILITIES** — Shall mean facilities owned or operated by the Town of Carver.

**NON EXEMPT EDUCATIONAL USE** — One (1) space for each teacher and employee, plus one space for each 10 students.

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**NONCONFORMING USES OR STRUCTURES** — Shall mean any structure or use of land lawfully existing at the effective date of this by-law or subsequent amendment which does not conform to one or more provisions of the by-law.

**NURSERY/GREENHOUSE** — Shall mean the raising of trees (for transplanting), ornamentals, shrubs, flowers, ground cover or house plants for any commercial purpose.

**NURSING HOME** — Shall mean any place or institution for the aged, infirmed, chronic or convalescent, whether conducted for charity or for profit, which is established to render domiciliary care, custody, treatment and/or lodging of three or more unrelated persons who require or receive assistance in ordinary daily activities of life, or who are confined to bed or chair. (This term includes boarding and rooming houses for aged people, convalescent homes, rest homes, homes for the aged or infirmed, convalescent homes for children, and the like; but does not include hospitals, clinics and similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases or mental illness.)

**OFFICE** — Shall mean a place for the transaction of a professional service or business, not including the sale of articles at retail.

**OPEN SPACE** — Shall mean ground space other than that occupied by structures, walkways, drives, parking or other surfaces. Required yard setbacks may be included as open space if in conformance with the above specifications.

**OVERLAY DISTRICT** — Shall mean a zoning district superimposed over an underlying district, superseding, where applicable, the less stringent requirements of the underlying district.

**PERSONAL RECREATIONAL VEHICLES** — Motorized All-Terrain Vehicles (ATV's"); Quads, Dirt Bikes or other similar vehicles including motorcycles.

**PLACE OF ASSEMBLY** — Shall mean a structure accommodating ten (10) or more persons, for recreational, for-profit educational, political, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Places of assembly shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers or private clubs conducted for or not for profit.

**PRINCIPAL BUILDING OR STRUCTURE** — Shall mean any building or structure containing any principal use as indicated in Section 3580,<sup>21</sup> except where such use is a home occupation. Where more than one principal use is conducted on a lot and such uses are in more than one building or structure, each building or structure shall be considered a principal building or structure.

**PRINCIPAL USE** — Shall mean a main or primary use for which a structure or lot is used, occupied or maintained.

**PRINT SHOP** — Shall mean a retail establishment that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating of booklets and reports.

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21. Editor's Note: So in original. Original Sec. 3580 is now Article 3-6, Large-Scale Ground-Mounted Solar Photovoltaic Installations.

**PRIORITY DEVELOPMENT SITE (PDS)** — Shall refer to a privately or publicly owned property that has been so designated by Carver Town Meeting and by the State of Massachusetts Interagency Permitting Board. Development upon such sites shall adhere to the provisions of the State of Massachusetts Chapter 43D Expedited Permitting Program. Several parcels or projects may be included within a single priority development site.

**PRIVATE CLUB** — Shall mean an organization catering to members and guests, for fraternal, recreational, social, or other purposes.

**PRIVATELY OWNED WASTEWATER TREATMENT FACILITY OR PWTF** — Any device or system owned by a private entity that is used for the treatment and disposal (including recycling and reclamation) of sewage and/or industrial wastewater. A Privately Owned Wastewater Treatment Facility includes the sewers, pipes, or other conveyances that convey the wastewater to the treatment facility.

**PUBLICLY OWNED TREATMENT WORKS OR POTW** — Any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature, which is owned by a local government unit. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

**RECEIVING PARCEL(S)** — Shall mean land that, through the granting of a special permit, may receive development rights from a sending parcel(s).

**RECONSTRUCTION** — The rebuilding within the existing footprint of the existing structure; part of or the whole existing structure, as it sits on the lot.

**RECREATIONAL CAMPSITE** — A plot of ground within a recreational campground intended for the accommodation of either a recreational vehicle, tent, or other individual camping unit on a temporary basis.

**RECREATIONAL TOURIST RAILROAD** — Shall mean a railroad used as a tourist attraction, with accessory uses, including, but not limited to, retail establishments selling convenience goods and restaurants.

**RECREATIONAL VEHICLE** — A vehicular type of unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own power or is mounted on or drawn by another vehicle. The basic entities are travel trailer, camping trailer, truck camper, and motor home.

**RESTAURANT** — Shall mean an establishment that serves food and beverages primarily to persons seated within the facility, including outdoor cafes.

**RESTAURANT, DRIVE-IN** — Shall mean a restaurant where food or drinks are usually served to or consumed by persons while they are seated in their vehicles or off the premises.

**RESTAURANT, FAST-FOOD** — Shall mean an establishment that offers quick food service, with a limited menu or items already prepared and held for service, or heated quickly by device, with orders generally not taken at table, and generally served in disposable wrapping or containers.

**RETAIL** — Shall mean the sale of commodities, primarily in small quantities, to the end consumer.

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**RETAIL SALES ESTABLISHMENT** — Shall mean a commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

**SAWMILL** — Shall mean a manufacturing facility housing a mill or machine used for sawing logs into lumber.

**SELF STORAGE FACILITY** — A building containing individual, compartmentalized and controlled access stalls, rooms or lockers or property that is leased, rented or owned by different individuals for the storage of individual possessions or personal property.

**SENDING PARCEL(S)** — Shall mean land from which development rights, as determined by the Planning Board, may be transferred to a receiving parcel(s).

**SERVICE SHOPS** — Shall mean a facility providing service to the public for compensation, such as, but not limited to, dry cleaning, printing, and picture framing shops.

**SETBACK** — Shall mean the minimum horizontal distance between the street or front lot line and the building nearest the street or front lot line, such distance measured at a right angle to the street or front lot line.

**SIGN** — Shall mean any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products services or facilities available, either on the lot or on any other premise, excluding window displays and merchandise.

**SIGN OFFICER** — Shall mean the Zoning Enforcement Officer.

**SIGN, ADDRESS** — Shall mean a sign displaying the street number or name of the occupant of the premises or both.

**SIGN, BILLBOARD** — Shall mean a free-standing sign, not including a directory sign, larger than thirty-five (35) sq. ft. in gross area, or a wall sign covering more than ten percent (10%) of the area to which it is affixed.

**SIGN, CONSTRUCTION** — Shall mean a non-premise sign identifying the contractor, architect, landscape architect, and/or engineer's name, address, and other pertinent information.

**SIGN, DIRECTIONAL ON PUBLIC PROPERTY** — Shall mean an off-premises sign, typically in the public right-of-way at an intersection, directing the public to a nearby business or event.

**SIGN, DIRECTORY** — Shall mean a group of signs clustered together in a single structure or compositional unit of integrated and uniform design. A directory sign is used to advertise several occupants of the same building or building complex. It may be self-supporting or affixed to a wall.

**SIGN, EXTERNALLY ILLUMINATED** — Shall mean a sign lit by a source outside the sign and shining against the face of the sign.

**SIGN, FLASHING** — Shall mean a sign whose illumination is not kept constant in intensity at all times, when in use, and which exhibits changes in light, color, direction, or animation.



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**SIGN, FOR SALE/RENT/LEASE** — Shall mean an on-premise sign advertising the property being sold or rented.

**SIGN, FREE STANDING** — Shall mean a self-supporting sign not attached to any building, wall or fence, but in a fixed location. For purposes of this definition, this does not include, portable or trailer type signs, monument, or directory signs.

**SIGN, ILLUMINATED** — Shall mean any sign lit by electrical bulbs, fluorescent lights, or neon tubes. Neon tubes used as abstract, graphic, decorative, or architectural elements shall be considered to constitute an illuminated sign.

**SIGN, INDIVIDUAL LETTERS OR SYMBOLS** — Shall mean a sign created by separate symbols which are attached to an awning, marquee, building surface, wall, or sign board.

**SIGN, INTERNALLY ILLUMINATED** — Shall mean a sign lit from within the sign, or from lights or tubes which comprise any part of the design or lettering of a sign, or which originates behind a sign so as to create an effect of originating within the sign.

**SIGN, MARQUEE** — Shall mean a sign attached to, painted on, or hung from an awning, canopy, or other covered structure projecting from and supported by the building and extending beyond the building wall.

**SIGN, MONUMENT** — Shall mean a sign which is an integrated part of an independent structure supported from grade to the bottom of the sign, with the appearance of having a solid base.

**SIGN, MOVEABLE OR TEMPORARY** — Shall mean a sign capable of being readily moved or relocated, including a banner, poster, or portable sign mounted on a chassis and wheels, and which is not included in the regular sign allotment for a business.

**SIGN, OFF-PREMISES** — Shall mean any sign which is not on the premises of the business, including a billboard.

**SIGN, ON-PREMISE SIGN** — Shall mean any sign that advertises, calls attention to or identifies the occupant of the premises on which the sign is maintained, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent.

**SIGN, PAINTED WALL** — Shall mean a permanent mural or message painted directly onto a building surface.

**SIGN, POLITICAL** — Shall mean a sign designed to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a national, state, or other local election.

**SIGN, PROJECTING** — Shall mean a sign which is affixed to a building which extends more than six (6) inches beyond the surface to which it is affixed.

**SIGN, PUBLIC SERVICE** — Shall mean a sign located for the purpose of providing directions towards or indication of use not readily visible from the street (e.g., restrooms, telephone, etc.)

**SIGN, ROOF** — Shall mean a sign which is located above, or projects above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted on or fastened to a roof.

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**SIGN, TRAFFIC FLOW** — Shall mean an on-premises sign solely indicating ingress and egress placed at driveway locations, containing no advertising materials.

**SIGN, WALL** — Shall mean any sign which is painted on, incorporated into, or affixed parallel to the wall of a building, and which extends not more than six (6) inches from the surface of that building.

**SIGN, WINDOW** — Shall mean any sign which is painted or mounted onto a window pane, or which is hung within 12 inches of a window with the purpose or effect of identifying any premises from the sidewalk or street.

**SOLID WASTE** — Shall mean unwanted or discarded solid material with insufficient liquid content to be free flowing, including without limitation rubbish, garbage, junk refuse and ash. The term does not include vegetative compost, tree stumps and brush under 200 cubic yards.

**SPECIAL PERMIT** — Shall mean a permit issued pursuant to G.L. c. 40A, s. 9 and this by-law. In accordance with case law, neither the Zoning Act nor the town zoning by-law gives an absolute right to a special permit. The special permit granting authority is not compelled to grant the permit; it has discretionary power in acting thereon.

**STACKING LANE** — An area of stacking spaces and driving lane provided for vehicles waiting for drive-through service that is physically separated from other traffic and pedestrian circulation on the site.

**STACKING SPACE** — An area within a stacking lane for vehicles waiting to order and/or finish a drive-through transaction.

**STORY** — Shall mean the portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its coiling<sup>22</sup> is four (4) feet six (6) inches or more above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and not used for human occupancy.

**STREET** — Shall mean either (a) a public way or a way which the Town Clerk certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and constructed or secured in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the Town, having in the opinion of the Planning Board sufficient width, suitable grades, and adequate construction in relation to the proposed use of land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**STRUCTURE** — Shall mean anything constructed or erected, the use of which requires fixed location on the ground, including, but not limited to buildings, wireless communications facilities and equipment, swimming pools, satellite dishes, tennis courts, and animal enclosures.

**TATTOO** — Shall mean the indelible mark, figure, or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.

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22. Editor's Note: So in original; should be "ceiling."

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**TATTOO PARLOR** — Shall mean an establishment which provides the service of tattooing by a qualified, licensed professional.

**TATTOOING** — Shall mean the means or method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin mucosa. This term includes all forms of cosmetic tattooing.

**TOWNHOUSE** — Shall mean a single building or group of buildings on a single lot, containing more than two (2) but not more than five (5) dwelling units per building, created in accordance with the provisions of Article 3-10, herein.

**TOXIC OR HAZARDOUS MATERIALS** — Shall mean any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies and to human health, if such materials were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, petroleum products, heavy metals, radioactive materials, virulent infectious wastes, pesticides, herbicides, solvents, thinners and other materials which are listed as U.S. Environmental Protection Agency Priority Pollutants.

**TRAFFIC IMPACT STUDY** — A traffic study shall be prepared by a registered professional engineer experienced and qualified in traffic engineering. The study shall include the following information: existing and projected traffic conditions, peak hour and daily traffic generation, sight lines for all existing and proposed intersections, existing and proposed traffic controls for the impact area. The impact area includes all streets and intersections within 1000 feet of the project boundaries. The impact area may be adjusted by the Planning Board.

**TRAILER** — Shall mean any of the various types of vehicles which generally depend for mobility on a motor vehicle and which are used for human habitation or for business purposes, and which is, has been, or can be mounted on wheels, including the type of vehicle commonly known as a mobile home, but excluding vehicles used only for transportation of materials, products, or animals.

**TRANSFER OF DEVELOPMENT RIGHTS (TDR)** — Shall mean a development right (house lot) can be transferred from a sending parcel(s) in the sending area to a receiving parcel(s) in the receiving area. As part of the transfer of the development rights from the sending parcel either a conservation restriction shall be placed on the sending parcel or ownership of the sending parcel shall be donated to the Town of Carver for conservation purposes or its designee.

**TRUCK TERMINAL** — Shall mean land or buildings in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semitrailers, including tractor and/or trailer units and other trucks, are parked or stored.

**WHOLESALE, WAREHOUSE, OR DISTRIBUTION FACILITY** — Shall mean a structure used primarily for the storage of goods and materials, with or without wholesale sales.

**WIRELESS COMMUNICATIONS FACILITY** — Shall mean fixtures and/or equipment used by a public utility or an FCC-licensed commercial entity for personal wireless service, or other wireless transmission and reception of radio signals including (a) reception and transmission equipment and fixtures such as antennae, communications dishes, and similar

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devices, and (b) monopoles that are erected and used primarily to support such reception and transmission equipment. A wireless communications facility may include accessory mechanical, electronic, or telephonic equipment necessary to operate such facility; provided, however, that such facility shall be a transmission and reception substation, not a principal facility for conducting a communications business.

**YARD** — Shall mean an open space on a lot unoccupied and unobstructed by any building or structure, except the following: fences, walls, poles, posts, paving, and other customary yard accessories, ornaments, and furniture; or, in front yards only, eaves, steps, and non-covered porches.

**YARD, FRONT** — Shall mean a yard extending between lot side lines across the lot adjacent to the front lot line.

**YARD, REAR** — Shall mean a yard extending between lot side lines adjacent to the rear of the lot.

**YARD, SIDE** — Shall mean a yard extending along each side line of a lot between front and rear yard.

ZONING

*290 Attachment 1*

**Town of Carver**

**Zoning Bylaw: Town Meeting and Attorney General Approvals**

Adopted: July 26, 1963

Revised: April 27, 1998

Revised: June 16, 2003

ATM May 19, 2009 (Art. 44-49, 51-54, 56 and Map) — Approved October 14, 2009

ATM May 17, 2010 — No changes approved by AG

STM November 8, 2010 (Art. 11-14, 16-18 and Map) — Approved March 7, 2011

ATM June 14, 2011 (Art. 41, 43, 45, 51 and Map) — Approved October 7, 2011.

ATM/STM June 4, 2012 (Art. 31 and 7) — Approved September 11, 2012

STM December 6, 2012 (Art. 10) — Approved March 13, 2013

ATM June 3, 2013 (Art. 35 and 40) — Approved September 25, 2013

ATM June 16, 2014 (Art. 23, 24, 25 and Map) — Approved October 20, 2014

ATM April 13, 2015 (Art. 14 and Map) — Approved August 10, 2015

ATM April 11, 2016 (Art. 13 and 14-Map) — Approved August 11, 2016

ATM April 11, 2017 (Art. 12 and 13-Map) — Approved August 3, 2017 and July 21, 2017

ATM April 24, 2018 (Art. 8, 9 and 12) — Approved September 7, 2018 and December 3, 2018

ATM April 23, 2019 (Art. 20, 21, 22, 23, 24, 25, 27) — Approved August 15, 2019

ATM June 29, 2020 N/A

ATM April 13, 2021 (Art. 22) Procedural defect 8/4/21 — Approved 11/6/2021

ATM April 14, 2022 (Art. 10, 11, 12, 13, 14, 15, 16, 17, 19, 20) — Approved 9/19/2022

ATM, April 12, 2022 (Art. 26 and 28) — Approved 11/14/2022

ATM April 11, 2023 (Art. 27, 28, 29, 31, 32, 33, 34) — Approved 8/8/2023



# **APPENDIX**





## **Chapter A300**

### **SPECIAL ACTS**

#### **ARTICLE I**

**An Act of the General Court Authorizing  
the Town of Carver to Establish a  
Department of Public Works**

- Section 1.**
- Section 2.**
- Section 3.**
- Section 4.**
- Section 5.**
- Section 6.**

#### **ARTICLE II**

**An Act of the General Court Authorizing  
the Town of Carver to Establish Recall  
Petitions**

- Section 1. Application.**
- Section 2. Recall petitions.**
- Section 3. Recall election.**
- Section 4. Nomination of candidates.**
- Section 5. Propositions on ballot.**
- Section 6. Officeholder.**
- Section 7. Repeat of recall petition.**
- Section 8.**

#### **ARTICLE III**

**An Act of the General Court Authorizing  
the Town of Carver to Create and Define  
the Position of the Town Administrator**

- Section 1.**
- Section 2.**
- Section 3.**

#### **ARTICLE IV**

**An Act of the General Court Relative to  
Certain Insurance Benefits for Part Time  
Elected Officials**

#### **ARTICLE V**

**An Act Relative to the Department of  
Public Works in the Town of Carver**

- Section 1.**
- Section 2.**
- Section 3.**
- Section 4.**
- Section 5.**
- Section 6.**
- Section 7.**
- Section 8.**

#### **ARTICLE VI**

**An Act Relative to the Position of  
Constable in the Town of Carver**

- Section 1.**
- Section 2.**
- Section 3.**
- Section 4.**

#### **ARTICLE VII**

**An Act Regarding Group Health  
Insurance for Eligible Employees and  
Retirees in the Town of Carver**

- Section 1.**
- Section 2.**
- Section 3.**
- Section 4.**
- Section 5.**

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**ARTICLE VIII****An Act Creating a Department of  
Municipal Finance in the Town of Carver  
under the Direction of a Finance Director****Section 1.****Section 2.****Section 3.****Section 4.****Section 5.****Section 6.****Section 7.****Section 8.****Section 9.****Section 10.****ARTICLE IX****An Act Creating Senior Tax Relief in the  
Town of Carver****Section 1.****Section 2.****Section 3.****Section 4.****Section 5.****Section 6.****Section 7.****Section 8.****Section 9.****Section 10.****ARTICLE X****An Act Relative to the Position of Deputy  
Chief of Police in the Town of Carver****Section 1.****Section 2.****Section 3.****Section 4.****ARTICLE XI****An Act Authorizing the Town of Carver  
to Transfer Certain Real Property,  
Including Water Wells and a Pumping  
Station, to the Cranberry Village  
Residents Association, Inc. for Water  
Supply Purposes****Section 1.****Section 2.**

**[HISTORY: Adopted by the Town Meeting of the Town of Carver as Appendix A of the  
2015 Compilation. Amendments noted where applicable.]**

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**ARTICLE I****An Act of the General Court Authorizing the Town of Carver to Establish a  
Department of Public Works****Section 1.**

There shall be established a board of public works, herein after called the board, to consist of three members. The initial members thereof shall be elected to serve, one for three years, one for two years, and one for one year from date of annual town election at which said members are elected and thereafter when the term of any member expires, his successor shall be elected to serve for three years. In all cases, the members of the board shall serve until their successors are qualified. The members of the board shall forthwith after each annual town election, elect from its members a chairman and a clerk for the ensuing year. In case of a vacancy, the remaining members of the board shall, jointly with the board of selectmen, within thirty days, fill such vacancy until the next town election, when a new member or

members shall be elected to fill the unexpired term. No person shall serve on the board who holds another elective or appointive office in the town.

## **Section 2.**

Upon the qualification of the initial members of the board of public works, the board shall have all the powers and duties now and from time to time vested by the General Laws or by town by-law or special act in the following boards, departments and offices, or in boards, departments and offices having corresponding powers and duties in the town of Carver to wit: park commissioners, cemetery commissioners, tree warden, highway surveyor, gypsy moth superintendent, and such boards, offices and departments shall be abolished. No contracts or liabilities then in force shall be affected by such abolition, but the board of public works, shall in all respects be the lawful successor to the boards, departments and offices so abolished.

The board shall have such added powers with respect to public works as the town may from time to time by by-law provide, any other provisions of the law to the contrary notwithstanding.

## **Section 3.**

The board shall consist of the park division, the cemetery division, the street division, and the tree and moth division.

## **Section 4.**

The board shall appoint and fix the compensation of a superintendent of public works, who shall exercise and perform, under its supervision and direction, such of the powers, rights and duties transferred to it under section two and as it may from time to time designate. He shall be responsible for the efficient exercise and performance of such powers, rights, and duties and shall hold office subject to the will of the board which may remove the superintendent for just cause only by a vote of at least two members of the board. His removal must be preceded by a written notice, given to him, which notice must specify the reasons for which he is to be removed, such a notice to be given at least fourteen days prior to his removal. At his request, he shall be entitled to a public hearing on the charges brought against him. He shall be specially fitted by education, training and experience to perform the duties of said office, and may or may not be a resident of the town during his tenure of office.

He shall hold no other elective or appointive office nor shall he be engaged in any other business or occupation. He shall give to the town a bond with a surety company authorized to transact business in the Commonwealth as surety, for the faithful performance of his duties in such sum and upon such conditions as the board may require, and shall, subject to the approval of the board, appoint such assistants, agents and employees as the exercise and performance of his powers, rights and duties may require. He shall keep full and complete records of the doings of his office and shall render to the board, as often as it may require, a full report of all operations under his control during the period reported upon, and annually, and from time to time as required by the board, he shall make a synopsis of such reports for publication, he shall keep the board fully advised as to the needs of the town within the scope

of his duties and shall annually furnish the board, no less than sixty days prior to the expiration of the fiscal year of said town, a carefully prepared and detailed estimate in writing of the appropriations required during the next succeeding fiscal year for the proper exercise and performance of all said rights and duties. There shall be no reduction in or dismissal of the present permanent employees without due cause due to the establishment of this act.

### **Section 5.**

This act shall be submitted for acceptance to the legal voters of said town at the annual town election in the year nineteen hundred and seventy-two, in the form of the following question which shall be placed on the official ballot to be used for the election of town officers at said election: "Shall an act passed by the General Court in the year nineteen hundred and seventy-one, entitled 'An Act authorizing the town of Carver to establish a department of public works exercising the powers of certain other departments and town officials', be accepted?". If a majority of votes cast in answer to this question are in the affirmative, this act shall become fully effective beginning with, and for the purposes of, the annual town election in the year nineteen hundred and seventy-two; otherwise it shall be of no effect.

### **Section 6.**

The town may after the expiration of three years from the date of acceptance of this act vote at an annual meeting to revoke such acceptance, and the question of such revocation shall be submitted to the voters in the form of the following question: "Shall the acceptance by the town of Carver of an act passed by the General Court in the year nineteen hundred and seventy-one, entitled 'An Act authorizing the town of Carver to establish a department of public works exercising the powers of certain other departments and town officials', be revoked?". If a majority of the votes cast in answer to said question is in the affirmative, then at the next annual town election held after said vote to rescind, the town shall elect such officers as are necessary to exercise and perform the powers, rights and duties transferred to the board of public works by said act. Such action shall not affect any contract or liability then created or existing. All general laws respecting town administration and town officers, and any special laws, relative to said town, the operation of which has been suspended or superseded by the acceptance of this act, shall then be in full force and effect. Any by-law inconsistent with such special or general laws shall be revoked thereby. Any subsequent vote to rescind the acceptance of said sections shall not be taken more often than once in three years.

## **ARTICLE II**

### **An Act of the General Court Authorizing the Town of Carver to Establish Recall Petitions**

#### **Section 1. Application.**

Any person, who holds an elected town office, with more than six months remaining of the term of office, may be recalled from office by the voters in the manner provided in this section.

**Section 2. Recall petitions.**

200 or more registered votes (in the Town) may file with the Town Clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The Town Clerk shall deliver to the said voters petition blanks demanding said recall, printed forms of which he/she shall keep available. The blanks may be completed by writing or typewriting; they shall be addressed to the Board of Selectmen; they shall contain the names and addresses of the persons who file the affidavit and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office, and they shall be dated and signed by the Town Clerk, in a record book maintained for that purpose. The recall petitions shall be returned and filed in the office of the Town Clerk within twenty days following the date the petitions were issued, signed by at least 15% of the total registered voters of the Town in each precinct, who shall add to their signatures at their address and precinct number.

The Town Clerk shall, within twenty-four hours following such filing, submit said petitions to the registrars of voters who shall within five working days certify thereon the number of signatures which are names of voters.

**Section 3. Recall election.**

If the petition shall be certified by the registrars of voters to be sufficient, the Town Clerk shall forthwith submit the same to the Board of Selectmen. Upon its receipt of the certified petition, the Board of Selectmen shall forthwith give written notice of said petition and certificate to the person whose recall is sought. If said officer does not resign his office within five days following delivery of the said notice, the Board of Selectmen shall order an election to be held not less than thirty-five nor more than sixty days after the date of the registrars' certificate of the sufficiency of the petition. If, however, another town election is to occur within sixty days after the date of said certificate, the Board of Selectmen shall hold the recall election on the date of other town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for Candidates need to be counted.

**Section 4. Nomination of candidates.**

An officer whose recall is sought may not be a candidate to succeed himself at the recall election. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of the same shall all be in accordance with the provisions of other laws relating to elections, unless otherwise provided in this section.

**Section 5. Propositions on ballot.**

Ballots used at a recall election shall state the following propositions in the order indicated:

For the recall (name of officer)

Against the recall (name of officer).

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Adjacent to each proposition, there shall be a place to vote for either of the said propositions. After the propositions shall appear the word "Candidates" and the names of candidates arranged alphabetically, by surname. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. if[??] a majority of the votes on the question is in the negative, the ballots for candidates need NOT be counted, except as provided in Section 3 above.

#### **Section 6. Officeholder.**

The incumbent shall continue to perform the duties of his/her office until the recall election. If he/she is not recalled in the election, he/she shall continue in office for the remainder of his/her unexpired term, subject to recall as before, except as provided in the section.

If the officer is recalled in the election, he/she shall be deemed removed upon the qualification of his/her successor who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his/her election, the incumbent shall thereupon be deemed removed and the office vacant.

#### **Section 7. Repeat of recall petition.**

No recall petition shall be filed against an officer within six months after he/she takes office, or in the case of an officer subjected to a recall election and not recalled thereby until at least nine months after the election at which his/her recall was submitted to the voters.

#### **Section 8.**

This Act shall be submitted for acceptance to the voters of the Town of Carver at the Annual Town Election in 1992. If the majority of the votes is in the affirmative the provisions of this Act shall become effective immediately.

### **ARTICLE III**

#### **An Act of the General Court Authorizing the Town of Carver to Create and Define the Position of the Town Administrator**

#### **Section 1.**

There shall be an officer in the Town of Carver known as Town Administrator.

#### **Section 2.**

The Town Administrator shall report directly to the Board of Selectmen and shall act as agent for the Board in overseeing the day-to-day operation of Town Government.

**Section 3.**

The Town Administrator's mode of appointment, qualifications, powers, duties and conditions of employment shall be set forth in Article 60, Town By-Law # 30, adopted by the 1993 Annual Town Meeting.

**ARTICLE IV****An Act of the General Court Relative to Certain Insurance Benefits for Part Time Elected Officials**

**[Acts of 1998, Ch. 480, approved 1-15-1999]**

Notwithstanding the provisions of Massachusetts General Law 32B, part-time elected officials of the Town of Carver who receive a stipend shall not be eligible for participation in the town's contributory health and life insurance benefit plan, except that those part-time elected officials who were elected before April, 1998 and currently participate in the plan shall be eligible to continue until the end of the current term. Part-time elected officials who receive a stipend who pay the full monthly cost to the town, plus any administrative costs that may be assessed by the Board of Selectmen, may be deemed eligible to participate.

**ARTICLE V****An Act Relative to the Department of Public Works in the Town of Carver**

**[Acts of 2014, Ch. 428, approved 1-2-2015]**

**Section 1.**

Chapter 585 of the acts of 1971 is hereby repealed.

**Section 2.**

There shall be in the town of Carver a department of public works, which shall have all the powers and duties that were vested in the board of public works and shall have all the powers and duties that are vested by the General Laws, town by-laws or special acts in the following boards, departments and offices or in boards, departments and offices having corresponding powers and duties in the town of Carver: park commissioners, cemetery commissioners, tree warden, highway surveyor and superintendent of shade tree management and pest control. The department shall be responsible for such other matters as determined by the town administrator, with the approval of the board of selectmen; provided, that said other matters may include, but shall not be limited to, facilities maintenance, wastewater and storm water treatment and disposal, refuse removal and recycling.

**Section 3.**

The department may consist of 1 or more divisions, including but not limited to, a: park division, cemetery division, street division and tree and moth division; provided, that the department may be organized in such other manner as determined by the town administrator, with the approval of the board of selectmen.

**Section 4.**

The department shall be supervised by a director. The town administrator shall appoint the director; provided, however, that said appointment shall be subject to the by-laws that provide for the appointment of officers of the town by the town administrator. The town administrator, with the approval of the board of selectmen, may establish an employment contract with the director for salary, fringe benefits and other conditions of employment, including, but not limited to, severance pay, reimbursement for expenses incurred in the performance of the duties of office, liability insurance and conditions of discipline, termination, dismissal, reappointment, performance standards and leave.

**Section 5.**

The director shall exercise and perform, under the direction and supervision of the town administrator, all of the powers, rights and duties to be exercised by the department under section 2, subject to any policy directives issued by the board of selectmen. The director shall be responsible for the efficient exercise and performance of such powers, rights and duties and shall hold office subject to the will of the town administrator, in consultation with the board of selectmen. The director shall hold no other elective or appointive office in the town of Carver and shall not be engaged in any other business or occupation. The director shall provide the town a bond, with a surety company authorized to transact business in the commonwealth, as surety for the faithful performance of the director's duties, in such sum and upon such conditions as the town administrator shall require. The director shall report to the town administrator as to the doings of the office at such times as the administrator may require.

**Section 6.**

No contracts or liabilities in force upon the effective date of this act shall be affected by the repeal of said chapter 585 of the acts of 1971, and the department of public works and the director of public works created in this act shall in all respects be the lawful successor of the offices and departments that were abolished by the repeal of said chapter 585. All records, property and equipment of any office, department or part thereof assigned under said chapter 585 shall, by operation of law, be assigned to the department of public works and the director of public works.

**Section 7.**

Upon the effective date of this act, the offices of board of public works and the superintendent of public works, created by said chapter 585 of the acts of 1971, are hereby abolished. The incumbent members of the board of public works, who hold office as of the effective date of this act, shall constitute an advisory committee to the town administrator and director of public works and may have a voice but no vote on the matters falling within the jurisdiction of the department. The members of said advisory committee may serve for a period equivalent to the remainder of their elected board term or their sooner vacating of the position. The incumbent appointed superintendent of public works, as of the effective date of this act, shall serve as a temporary director of public works until such time as a permanent appointment is made under section 4.



**Section 8.**

This act shall take effect upon passage.

## ARTICLE VI

**An Act Relative to the Position of Constable in the Town of Carver  
[Acts of 2016, Ch. 12, approved 1-29-2016]****Section 1.**

Notwithstanding section 91A of chapter 41 of the General Laws or any other general or special law to the contrary and subject to the by-laws of the town of Carver, the town administrator, in consultation with the chief of police, may from time to time appoint not more than 3 constables as the town administrator considers necessary; provided, however, that the board of selectmen may reject the appointment of a constable within 15 days after being notified of the appointment. The constables shall have all the powers, duties and responsibilities of, and be subject to the liabilities and penalties conferred and imposed by law on, the offices of constable under the General Laws.

**Section 2.**

The town administrator of the town of Carver, with the approval of the board of selectmen, may establish an employment contract for up to 3 years with each appointed constable for salary, fringe benefits and other conditions of employment including, but not limited to, severance pay, reimbursement for expenses incurred in the performance of the duties of office, liability insurance and conditions of discipline, termination, dismissal, reappointment, performance standards and leave.

**Section 3.**

The position of elected constable in the town of Carver shall be abolished and the elected incumbents serving as the effective date of this Act shall serve for the remaining time or their sooner vacating of the offices. Contracts or liabilities in force on the effective date of this act shall not be affected by the abolition of the elected office of constable and the appointed office of constable created in this act shall in all respects be the lawful successor of the abolished or consolidated elected offices.

**Section 4.**

This act shall take effect upon its passage.

## ARTICLE VII

**An Act Regarding Group Health Insurance for Eligible Employees and Retirees in the  
Town of Carver****[Acts of 2016, Ch. 178, approved 8-2-2016]****Section 1.**

Notwithstanding any general or special law to the contrary, the actions of the town of Carver and its Board of Selectmen with respect to health insurance and benefits provided to its employees or retirees after the town accepted section 10 of chapter 32B of the general laws in 1966, and all actions pursuant thereto, are hereby ratified, validated and confirmed as if the town and its board had properly voted to approve the provision of health insurance benefits to its employees and retirees in accordance with law.

**Section 2.**

Notwithstanding any general or special law to the contrary, the town of Carver shall contribute 75 per cent of the cost of the premium for group health insurance coverage provided by the town to an eligible retiree who retires not later than June 30, 2025 and who elects coverage under the town's group health insurance.

**Section 3.**

Notwithstanding any general or special law to the contrary, the Town of Carver shall contribute 50 per cent of the cost of the premium for group health insurance coverage provided by the town to an eligible retiree who retires after June 30, 2025 and who elects coverage under the town's group health insurance.

**Section 4.**

Upon separation from employment with the Town of Carver, an eligible retiree may elect at the time of separation of employment to continue to participate in the Town's group health insurance program, subject to the terms and underwriting conditions of the Town's in-force insurance providers. An eligible retiree, who fails to exercise the election opportunity within thirty (30) calendar days of retirement shall have waived the right to participate in the town's group insurance program.

**Section 5.**

This act shall take effect upon its passage.

## ARTICLE VIII

**An Act Creating a Department of Municipal Finance in the Town of Carver under the  
Direction of a Finance Director  
[Acts of 2016, Chapter 284]**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

**Section 1.**

Chapter 414 of the acts of 2014 is hereby repealed.

**Section 2.**

Notwithstanding any general or special law to the contrary, there shall be a department of municipal finance in the town of Carver that shall be responsible for the coordination of all financial functions and activities of the town including, but not limited to: maintenance of all accounting records and other financial statements; payment of obligations on behalf of the town; investment of town funds and management of debt; receipt of all funds that are due; maintenance of a system of property valuation; rendering of advice, guidance and recommendations to town departments, offices and boards in matters related to their financial or fiscal affairs; and routine monitoring and reporting of revenues and expenditures by town departments, offices and boards. The department shall include the offices and functions of the town accountant, treasurer-collector, board of assessors and principal assessor; provided, however, that the board of assessors shall continue to exercise its duties and responsibilities pursuant to the General Laws, except as otherwise provided in this act. The department shall have such additional powers, duties and responsibilities with respect to municipal finance-related functions and activities as the town may provide by by-law.

**Section 3.**

The department of municipal finance shall be under the direct control and supervision of a finance director who shall report to the town administrator. The finance director shall be appointed by the town administrator in consultation with the chairs of the finance and capital outlay committees; provided, however, that the appointment shall be subject to the by-laws of the town of Carver that provide for the appointment of officers of the town by the town administrator. The finance director may be removed by the town administrator; provided, however, that the removal shall take effect on the fifteenth day following the day on which written notice is provided to the board of selectmen, unless the board of selectmen shall, within that period, vote to reject the removal or sooner affirm it. The finance director shall be a person especially fitted by education, experience and training to perform the duties of the office. The salary, fringe benefits and other conditions of employment of the finance director may be established by contract, subject to appropriation, for a period of up to 5 years including, but not limited to: severance pay; relocation expenses; reimbursement for expenses incurred in the performance of the duties of office; liability insurance; conditions of discipline; termination; dismissal and reappointment; performance standards; and leave.

**Section 4.**

The finance director of the town of Carver may serve as the town accountant or treasurer-collector, but not both, and shall be responsible for coordinating the fiscal management procedures of the offices of the town accountant, treasurer-collector and principal assessor. The finance director shall be the administrator of budgeting, which shall encompass financial reporting, accountability and control and an advisor to the board of selectmen, town administrator, finance committee and the other town departments on the financial and programmatic implications of current and future financial policies, including standards for the preparation of the annual budget and capital plan.

The finance director shall, in consultation with the town administrator, be responsible for the supervision and coordination of all personnel, tasks and activities of the department of municipal finance. The finance director shall provide the town administrator and board of selectmen with reports concerning the matters under the finance director's supervision not less than quarterly and more often as requested. The finance director shall have additional duties and responsibilities as may be determined by the town administrator or by-law.

**Section 5.**

Notwithstanding any general or special law to the contrary, there shall be a principal assessor in the town of Carver who shall report to the finance director. The principal assessor shall be appointed by the town administrator in consultation with the finance director and board of assessors; provided, however, that the appointment shall be subject to the by-laws of the town that provide for the appointment of officers of the town by the town administrator. The principal assessor shall be a person especially fitted by education, experience and training to perform the duties of the office.

**Section 6.**

The principal assessor shall be responsible for: the administrative, technical and supervisory functions related to the appraisal, valuation and assessment of real and personal property; planning, directing and supervising the work of the board of assessors' office; directing and administering contracts with firms or individuals providing professional assessing services to the town; compiling data and information for the board of assessors and other town officials; investigating requests for abatement and exemptions of property tax; and providing assistance to the board of assessors in connection with abatement and exemption applications and otherwise as may be requested. The principal assessor shall have additional duties and responsibilities that may be determined by the town administrator, finance director or by by-law.

**Section 7.**

Notwithstanding any general or special law to the contrary, there shall be a treasurer-collector in the town of Carver who shall have the powers, duties and responsibilities of, and be subject to the liabilities and penalties conferred and imposed by law on the office of treasurer and collector under the General Laws, except as provided in this act. The town administrator, in consultation with the finance director and the chairpersons of the finance and capital outlay

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Section 1

committees, shall appoint the treasurer-collector, if the position is separate from the position of finance director; provided, however, that the appointment shall be subject to the by-laws of the town that provide for the appointment of officers of the town by the town administrator. The treasurer-collector shall be a person especially fitted by education, experience and training to perform the duties of the office.

### **Section 8.**

Notwithstanding any general or special law to the contrary, there shall be a town accountant in the town of Carver who shall have the powers, duties and responsibilities of, and be subject to the liabilities and penalties conferred and imposed by law on the office of town accountant under the General Laws, except as provided in this act. The town administrator, in consultation with the finance director and the chairs of the finance and capital outlay committees, shall appoint the town accountant if the position is separate from the position of finance director; provided, however, that the appointment shall be subject to the by-laws of the town that provide for the appointment of town officers by the town administrator. The town accountant shall be a person especially fitted by education, experience and training to perform the duties of the office.

### **Section 9.**

Contracts or liabilities in force on the effective date of this act shall not be affected by the consolidation of certain financial functions of the town as provided in this act.

### **Section 10.**

This act shall take effect upon its passage.

Approved, October 6, 2016

## **ARTICLE IX**

### **An Act Creating Senior Tax Relief in the Town of Carver [Acts of 2018, Chapter 299]**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

### **Section 1.**

Notwithstanding any general or special law to the contrary, and subject to sections 2 to 9, inclusive, the town of Carver shall reduce the property taxes due on qualifying property by the sum of \$500, except that there shall be a dollar cap on the total exemptions granted pursuant to this act equal to 0.5 per cent of the fiscal year's total residential property tax levy for the town of Carver with the total exemption amount granted pursuant to this act allocated proportionally within the tax levy on all residential taxpayers. In the event that the dollar cap is reached, a reduction shall be reduced proportionally. The property taxes due on such

property shall not be reduced below zero. This reduction shall be in addition to any exemption or abatement allowable under the General Laws.

**Section 2.**

Real property classified as class one, residential in the town of Carver shall qualify for the exemption under section 1 if: (i) the property is owned by a person 65 years of age or older and is occupied as that person's domicile; (ii) the property is owned jointly by a person and that person's spouse, either of whom is 65 years of age or older, and occupied by the person as that person's domicile, (iii) the property is owned jointly by persons who are not spouses, either of whom is 65 years of age or older and occupies the property as that person's domicile; or (iv) the property is held as a life estate by a person 65 years of age or older and occupied by the person as that person's domicile; provided, that the property is a single family dwelling. For purposes of this act, the age of the qualifying person or persons shall be as of July 1 of the fiscal year for which the exemption is being requested.

**Section 3.**

Notwithstanding section 2, real property classified as class one, residential in the town of Carver of soldiers and sailors who are veterans, as defined in clause forty-third of section 7 of chapter 4 of the General Laws, whose last discharge or release from the armed forces was under other than dishonorable conditions and who are 62 years of age or older shall qualify for the exemption under section 1 if: (i) the property is owned by the veteran and occupied as the veteran's domicile; (ii) the property is owned jointly by the veteran and the veteran's spouse and occupied by the veteran as the veteran's domicile; (iii) the property is owned jointly by persons who are not spouses, either of whom is a veteran and occupies the property as the veteran's domicile; or (iv) the property is held as a life estate by a veteran and occupied as the veteran's domicile; provided, that the property is a single family dwelling. For purposes of this act, the age of the qualifying person or persons shall be as of July 1 of the fiscal year for which the exemption is being requested.

**Section 4.**

The exemption under section 1 may be granted if: (i) the person has been a resident of the town of Carver for longer than 6 months in each of the previous 10 years; and (ii) the total household income, with each individual member of the household's total income calculated as defined in subsection (k) of section 6 of chapter 62 of the General Laws, does not exceed 60 per cent of the median household income for the town of Carver as reported for the relevant fiscal year by the United States Census Bureau.

**Section 5.**

A person who seeks to qualify for the exemption under section 1 shall file with the board of assessors an application for abatement on a form adopted by the board of assessors and available at the assessor's office along with the supporting documentation described in the application. The application shall be filed not later than December 1 in each year for which the applicant seeks the exemption for the fiscal year commencing the following July 1.

**Section 6.**

Acceptance of this act by the town of Carver shall be by an affirmative vote of a majority of the voters at a regular or special election at which the question of acceptance was placed on the ballot and, if necessary, by approval of the appropriate override. Implementation of this act shall occur on the thirtieth day following the affirmative vote.

**Section 7.**

The acceptance of this act may be revoked by an affirmative vote of a majority of the voters at a regular or special town election at which the question of revocation has been placed on the ballot by a 2/3 vote of the sitting members of the board of selectmen. Revocation of this act shall become effective on the thirtieth day following that affirmative vote.

**Section 8.**

The exemption provided in this act shall expire 3 years after implementation; provided, however, that the town of Carver may reauthorize the exemption for additional 3-year intervals by a vote of a majority of the voters at a town meeting.

**Section 9.**

This act shall not apply to betterments, special assessments, surcharges or the like, assessed in addition to real property tax on the qualifying property.

**Section 10.**

This act shall take effect upon its passage.

Approved, November 16, 2018.

**ARTICLE X****An Act Relative to the Position of Deputy Chief of Police in the Town of Carver  
[Acts of 2020, Chapter 239]**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

**Section 1.**

Notwithstanding any general or special law to the contrary, the position of deputy chief of police in the town of Carver shall be exempt from chapter 31 of the General Laws.

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Section 1

**Section 2.**

Candidates for appointment to the position of deputy chief of police in the town of Carver who are actively employed as police officers in the town may be given preference over applicants that are not actively employed by the police department of the town.

**Section 3.**

Section 1 shall not impair the civil service status of a person holding the position of deputy chief of police in the town of Carver on the effective date of this act.

**Section 4.**

This act shall take effect upon its passage.

Approved, December 23, 2020.

**ARTICLE XI**

**An Act Authorizing the Town of Carver to Transfer Certain Real Property, Including Water Wells and a Pumping Station, to the Cranberry Village Residents Association, Inc. for Water Supply Purposes  
[Acts of 2022, Chapter 170]**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

**Section 1.**

- A. Notwithstanding sections 15 and 15A of chapter 40 of the General Laws and section 16 of chapter 30B of the General Laws, but subject to paragraphs (a), (b) and (g) of said section 16 of said chapter 30B, the select board of the town of Carver, with the approval of the department of environmental protection as required by the regulations of the department, may convey all or a portion of the town's interests in certain real property and the water wells, pumping station and other water infrastructure located thereon, to the Cranberry Village Residents Association, Inc., a nonprofit corporation organized under chapter 180 of the General Laws. The property to be conveyed is described in a deed to the town recorded in the Plymouth county registry of deeds in book 8929, page 94.
- B. Consideration for the conveyance pursuant to subsection (a) shall be \$1 and such other terms and conditions as the select board deems to be in the best interests of the town including, but not limited to, a conservation restriction to be held by the conservation commission pursuant to sections 31 to 33, inclusive of chapter 184 of the General Laws requiring that the property be used in perpetuity solely for providing potable water to Cranberry Village and such other uses as may be incidental or related to the use and protection of the property as a potable water supply.



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**Section 2.**

This act shall take effect upon its passage.

Approved, August 10, 2022.



## Chapter A305

### GENERAL LAW ACCEPTANCES

**§ A305-1. Accepted provisions and/or actions taken in accordance with MGL.**

[The table below includes a partial list of General Laws accepted by the Town. Information regarding acceptances since 1993 is available from the Town Clerk's office.]

**§ A305-1. Accepted provisions and/or actions taken in accordance with MGL.**

Date of Action	M.G.L. Chapter	Amended by Chapter	Acts of	Result of Action	Subject Matter
1893	98		1889		Highway Supervisor
3-6-1899	132		1897		
3-6-1899	186		1884		
3-6-1899	27 s. 74-77				Road Commissioners
3-6-1899	190		1896		Tree Warden
3-6-1899	132		1897		
6-20-1903	25 s. 17				
6-20-1903	32 s. 24				
6-20-1903	53 s. 14				
6-20-1903	208 s. 9				Forester Act
		333			Corporations
3-7-1906	28 s. 1-14				Park Act
11-6-1906	RL 11			Accepted*	Official Ballots
3-18-1907	78 s. 21-25				Cemetery Commissioners
3-1-1909		209	1900	Accepted*	Forest Lands
3-4-1912		613	1911		est. Isolation Hospital
11-5-1912	RL 8 s. 3	503	1912	Tie Vote*	Pensioning Laborers
11-4-1913		807	1913	Accepted*	Workmen's Compensation

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Date of Action	M.G.L. Chapter	Amended by Chapter	Acts of	Result of Action	Subject Matter
3-2-1914		807	1913	Accepted*	Workmen's Compensation
3-2-1914		494	1911	Accepted*	Eight-hour day
11-3-1914		688	1914	Rejected*	Saturday Half-holiday
11-3-1914		217	1914	Rejected*	Laborers' Vacations
11-3-1914		790	1914	Accepted*	Abolition of Party Enrollment - Primaries
11-4-1919		311G	1919	Accepted*	Continuation Schools
3-6-1922		74	1920		Vocational School
3-5-1923		388	1923		Finance Committee
3-5-1923	128 s. 41, 45				Aid to Agriculture
3-5-1923		516	1922	Accepted*	Accounting System
11-5-1914	32 ss. 1-28	166	1946	Accepted*	Established Retirement System
8-12-1925	RL 78			Accepted*	Cemetery Commission
8-12-1925		23	1917	Accepted*	Licensing Coffee Houses
3-3-1930	41 s. 63				Superintendent of Streets
3-7-1939		403	1936		Inclusion of laborers, workmen, mechanics in Workmens' Compensation
1943		5	1953		Postwar Rehabilitation Fund
1951	41 s. 108				Compensation of Elected Officials
3-7-1955	41 s. 81A				Planning Board
3-3-1958	40 s. 6C				Removal of Snow and Ice
3-3-1958	44 s. 35				Accounting System
3-3-1958	66 s. 32	529	1949		Inspector of Wires
3-11-1961	41 s. 81A				Planning Board

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## GENERAL LAW ACCEPTANCES

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Date of Action	M.G.L. Chapter	Amended by Chapter	Acts of	Result of Action	Subject Matter
3-11-1961	48 s. 42				est. Fire Dept. and appointment of Fire Chief by Selectmen
3-25-1961	40 s. 5B				est. Stabilization Fund
11-25-1961	41 s. 81K-GG				Subdivisions
6-11-1963	40 s. 8C				Conservation Commission
6-11-1963	40 s. 5 clause 50, 51				Operation and Maintenance of Conservation Commission
12-15-1964	58 s. 7A				State Assessment
3-16-1968	40 s. 8A				est. Development and Industrial Commission
3-22-1969	41 s. 108				Compensation of Elected Officials
3-22-1969	90 s. 7L	713	1968		Prohibition of Standees on certain School Buses
3-22-1969	149 s. 1781[? ?]	633	1960		Designation of Attorney for School Comm. pertaining to Collective Bargaining
3-28-1970	40 s. 21 p. 10				Numbering of Buildings on Public Ways
10-30-1971	40 s. 8B				est. Council on Aging
10-30-1971	71 s. 14				est. Vocational Regional School Planning Comm.
3-1972		486	1971	accepted*	Licensing Beano
3-27-1972	40 s. 8D			Acceptance rescinded 4-11-2016 ATM by Art. 11	est. Historical Commission
3-27-1972	147 s. 17A				additional Pay for Police Officers

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Date of Action	M.G.L. Chapter	Amended by Chapter	Acts of	Result of Action	Subject Matter
3-27-1972	40 s. 21				Removal of Vehicles for Snow and Ice
11-21-1972	40 s. 44A				Creation of Regional Refuse Disposal Planning Committee
3-29-1973	40 s. 44A-K				est. Regional Refuse Disposal District
3-29-1973	41 s. 108A, C				est. Personnel Board
3-25-1974	40 s. 15C				Scenic Road Designation for Savery, Lakeview and Indian Streets
9-30-1974	121B				est. Local Housing Authority
5-17-1975	40 s. 6H				Allocation of funds for Private Ways
5-22-1975	40 s. 39A				Selectmen as Water Commissioners
4-20-1976	41 s. 108L				Police Incentive Pay
4-20-1976	140 s. 151A				Unlicensed Dogs
4-24-1978	53 s. 9A			accepted*	Nomination Papers
4-24-1978	40D			accepted*	Established Industrial Development and Financing Authority
9-25-1978	40D s. 22D			accepted*	Parking Regulations
9-25-1978	41 s. 1				Town Treasurer as Tax Collector
4-14-1980	41 s. 55				Town Accountant
4-28-1982	59 s. 5 clause 7C	743	1981		Exemptions for Certain Elderly Persons and Surviving Spouses
11-4-1985	262 s. 34				Fee Schedule

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## GENERAL LAW ACCEPTANCES

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Date of Action	M.G.L. Chapter	Amended by Chapter	Acts of	Result of Action	Subject Matter
9-22-1986	59 s. 5	73	1986		Exemptions for Certain Elderly Persons, Widow(er)s, Police and Fire Personnel Killed in the Line of Duty and Surviving Spouses and Minor Children
4-4-1987	98 s. 35				Sealer of Weights and Measures
4-27-1988	90 s. 20A				est. Parking Clerk - Operating Account
4-27-1988	40 s. 4G				Invitation to Bid Exempt Purchases under \$4000.
4-26-1989	44 s. 53E				B.O.H. Technical Review Account
4-26-1989	262 s. 34 clauses 1-79				Fee Schedule
6-6-1990	147 s. 19				Police Matron
6-6-1990	40 s. 57				Revocation, Suspension and/or Denial of Local Licenses or Permits
10-15-1990	40 s. 42A-F				Liens for Delinquent Water Charges
10-15-1990	44 s. 55, 55A				est. Revolving Fund for Council on Aging
6-10-1991	41 s. 81D				Performance Bonds
6-10-1991	40 s. 39K				Water Department Enterprise Account
6-10-1991	44 s. 53E 1/2				Revolving Fund for Council on Aging
10-2-1991	44 s. 53E 1/2				Revolving Fund for Physical Therapy
6-10-1991			C. 291 1990	accepted*	Enhanced 911

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<b>Date of Action</b>	<b>M.G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>Acts of</b>	<b>Result of Action</b>	<b>Subject Matter</b>
5-17-1993	121C				Creation of a Local Economic Development Industrial Corporation
10-14-1993	40 s. 57				Denial, Revocation or Suspension of Certain Licenses

\* from records attained from the Secretary of State Office of Commissions



# **DERIVATION TABLE**



## Chapter DT

### DERIVATION TABLE

**§ DT-1. Derivation Table of 2015  
Compilation to 2024 Code.**

**In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the 2015 Compilation have been included in the 2024 Code, or the reason for exclusion.**

**§ DT-1. Derivation Table of 2015 Compilation to 2024 Code.**

NI = Not included in Code but saved from repeal.

NLP = New legislation is pending.

<b>Chapter/Title From 2015 Compilation</b>	<b>Location in 2018 Code</b>
Ch. 1, Town Elections and Town Meetings	Ch. 76
Ch. 2, Elected Town Officers, Boards, Committees and Commissions	
Sec. 2.1, Town Moderator	Ch. 45, Art. I
Sec. 2.2, Select Board	Ch. 68
Sec. 2.3, Board of Health Fees	Ch. 145
Sec. 2.4, Treasurer/Collector Fees	Ch. 145
Sec. 2.5, Permitting Authority Bylaw	Ch. 1, Art. II
Ch. 3, Town Administrator	Ch. 45, Art. II
Ch. 4, Appointed Boards, Committees & Commissions	
Secs. 4.1 to 4.5, 4.7 and 4.9, Board, Commissions and Committees	Ch. 7
Sec. 4.6, Historic District	Ch. 166
Ch. 5, Personnel Administration	Ch. 51
Ch. 6, Public Safety	
Sec. 6.1, Leash Law	Ch. 114, Art. I
Sec. 6.1A, Rules and Regulations for the Control of Dogs	Ch. 114, Art. II
Sec. 6.2, Parking	Ch. 203

Chapter/Title From 2015 Compilation		Location in 2018 Code
	Sec. 6.3, Handicapped Parking	Ch. 203
	Sec. 6.4, Public Ways and Places	
	6.4.1, Disorderly Conduct and Obstruction by People	Ch. 130
	6.4.2, Consumption of Alcoholic Beverages on Certain Licensed Premises	Ch. 108
	Sec. 6.5, Burglar Alarm Systems By-Law	Ch. 103
	Sec. 6.6, The Use of Ponds and Lakes	Ch. 207, Art. I
	Sec. 6.7, Solicitor/Canvasser	Ch. 219
	Sec. 6.8, Numbering of Buildings	Ch. 122, Art. I
	Sec. 6.8, Public Consumption or Use of Marijuana or Tetrahydrocannabinol	Ch. 190
	Sec. 6.10, Civil Fingerprinting Authority for Police Department	Ch. 182, Art. II
	Ch. 7, Public Works	Ch. 252
	Ch. 8, Licensing and Regulation	
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