

# TOWN OF SANDWICH

## TOWN BYLAWS



**Taylor D. White**

**Town Clerk**

**Town of Sandwich**

**May 1, 2017**

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## TOWN OF SANDWICH

### TOWN BYLAWS

Note: Zoning ByLaws are printed in a separate book.

#### CHAPTER 1 GENERAL GOVERNMENT

##### **Section 1.00 Town Meeting: Convening**

The Annual Town Meeting for the appropriation of money for Town purposes, the election of Town Officers, and all other matters that may properly come before it, shall be held on the first Monday in May of each year, at such place within the Town as the Board of Selectmen (hereinafter referred to as "Selectmen") shall in the Warrant designate. All Special Meetings for whatever purpose shall be held at such place or places as the Selectmen shall so designate.

Adopted March 1, 1948 (Article 27)  
Amended March 5, 1973 (Article 56)  
Amended November 26, 1990 (Article 10)

##### **Section 1.05 Warrant: Insertion of Articles**

The Selectmen shall insert all articles in the Warrant for the Annual Town Meeting requested of them in writing by ten (10) or more registered voters of the Town on or before March 1.

The Selectmen shall insert all articles in the Warrant for a Special Town Meeting requested of them in writing by one hundred (100) or more registered voters of the Town if received by the Selectmen at least thirty-five (35) calendar days prior to the date announced by the Selectmen for holding such Special Town Meeting.

Adopted March 7, 1955 (Article 40)  
Amended August 6, 1973 (Article 13)  
Amended September 30, 1985 (Article 8)  
Amended May 4, 1987 (Article 56)  
Amended September 19, 1988 (Article 14)  
Amended November 26, 1990 (Article 10)  
Amended August 24, 1992 (Article 13)

##### **Section 1.10 Warrant: Posting**

The Warrant for any Town Meeting shall be directed to the Constables of the Town, or any one of them, and said Warrant shall be served by posting attested copies thereof in each Post Office District in the Town and at the Town Clerk's Office at least seven (7) days prior to the date of the Annual Town Meeting and at least fourteen (14) days prior to the date of any Special Town Meeting.

Adopted March 1, 1948 (Article 27)  
Amended September 30, 1985 (Article 7)  
Amended November 26, 1990 (Article 10)

##### **Section 1.15 Quorum: Time Limits**

At any Annual or Special Town Meeting, zero (0) registered voters shall constitute a quorum, and no business, other than adjournment, shall be transacted unless a quorum is present.

No motion on another article on the Warrant shall be introduced after 11:00 P.M. except by a two-thirds (2/3) majority vote of those present and voting.

Adopted March 1, 1948 (Article 27)  
Amended May 3, 1977 (Article 33)  
Amended May 2, 1988 (Article 85)  
Amended November 26, 1990 (Article 10)  
Amended May 7, 2007 (Article 32)

**Section 1.20 Expenditures: Exceeding \$500,000.**

Deleted.

Adopted May 6, 1974 (Article 34)  
Amended September 28, 1987 (Article 23)  
Amended November 26, 1990 (Article 10)  
Deleted May 6, 2002 (Article 27)

**Section 1.25 Warrant: Prescribed Order**

The meeting shall be opened by the Moderator who shall present the Articles in the Warrant in the order in which they appear, unless the voters present shall prescribe a different order.

Adopted March 1, 1948 (Article 27)  
Amended November 26, 1990 (Article 10)

**Section 1.30 Rules of Order**

A question of order shall be decided by the Moderator in accordance with Robert's Rules of Order as interpreted by "Town Meeting Time", a handbook of parliamentary law, except as otherwise provided by statute.

Adopted November 26, 1990 (Article 10)

**Section 1.35 Reconsideration of Vote**

Subsequent to the last vote taken and prior to adjournment of any session, the Moderator shall announce that no vote will be reconsidered unless such intention is declared forthwith.

No vote shall be reconsidered unless notice of intention to ask for reconsideration shall have been given to the Moderator before the close of that session during which the original vote was taken.

Adopted November 26, 1990 (Article 10)

**Section 1.40 Zoning ByLaw Changes: Notification**

The Planning Board shall provide a written report, recommendations, and motion to the Town Clerk prior to or during the meeting on each article relating to or amending the Zoning ByLaws of the Town of Sandwich.

Adopted November 26, 1990 (Article 10)

#### **Section 1.45 Limitation of Speeches**

Each person may be recognized by the Town Moderator to speak on any motion twice. The first speech will be limited to five (5) minutes. The second speech is limited to two (2) minutes.

This section may be suspended by a two-thirds (2/3) vote of those present and voting.  
Adopted November 26, 1990 (Article 10)

#### **Section 1.50 Declaration of Two-thirds Vote by Moderator**

If a two-thirds vote of Town Meeting is required by statute to approve an article at a Special or Annual Town Meeting, the Moderator, upon a voice vote without a count, may declare that a two-thirds vote has been obtained if it appears to the Moderator that a two-thirds vote has been obtained. The Town Clerk shall record the Moderator's declaration that the motion passed by a two-thirds majority vote in favor, unless seven or more voters rise to challenge the Moderator's declaration. If seven or more voters rise to challenge the Moderator's declaration, a counted vote shall be taken in accordance with G.L. C.39, §15.

Adopted May 6, 2002 (Article 28)

#### **Section 1.55 Summarization of Articles by Moderator**

At the Moderator's sole discretion, the Moderator may choose to accurately summarize warrant articles, rather than read them verbatim, provided that every such article shall be printed in the warrant and available to the voters at Town Meeting.

Adopted May 6, 2002 (Article 29)

## CHAPTER 2 GENERAL GOVERNMENT

### Section 2.00 Finance Committee

- a) There shall be a permanent committee known as the Finance Committee, composed of nine (9) voting residents of the Town. Members shall serve without compensation and no member may be an employee of the Town or hold any other elective or appointive Town position during term of office, except as otherwise provided in these ByLaws or as expressly authorized by vote of the Town.
- b) Members of this Committee shall be appointed by the Town Moderator for one-year terms. The term of office of each member shall commence on the first day of July of the current year and shall expire upon the final day of June of the following year. In making appointments to the committee, the Moderator shall take into consideration the demographic composition of the Town. The Moderator may appoint replacement members to fill any unexpired term in the event there is a resignation or death of a member. The Committee shall choose from its members a Chairman, and such other officers as it may determine. The Chairman may appoint from its members subcommittees to assist with carrying out the duties of the Committee. The Finance Committee may employ, subject to an appropriation therefor, a Secretary.
- c) The Finance Committee shall consider all fiscal articles in warrants for all Town Meetings and referenda and shall report its recommendations to the Town in a report printed and distributed before each Annual Town Meeting or in the public press before Special Town Meetings. It shall hold a public meeting with respect to the warrant at least seven (7) days prior to the Annual Town Meeting. At least one week notice prior to the said meeting shall be given by publication in the newspaper most likely to reach the largest number of households within the Town. In considering and making recommendations for warrant articles, the Committee shall consult with such Town Officers, Committees, or Boards as it deems advisable.
- d) The Finance Committee shall prepare and submit for the Annual Town Meeting a proposed budget for the ensuing fiscal year indicating any major changes from the current year in financial policies, expenditures, and revenues, and in particular shall perform the following duties:
  - 1) Prepare and submit, after consultation with such Town Officers, committees or boards, as it deems advisable, a budget that indicates proposed expenditures for current operations, capital projects and other monetary requests during the succeeding fiscal year.
  - 2) Study the long-term capital outlay requirements of the Town and make whatever recommendations are deemed feasible.
  - 3) Make such transfers from the Reserve Fund, as it deems advisable to provide for extraordinary or unforeseen expenditures.
- e) Each Town Officer and committee or board charged with the expenditure of money, shall, not later than the fifteenth day of January in each year, file with the Finance Committee via the Town Accountant or designated Town Officer, detailed estimates of the amounts deemed by them necessary for the administration of their respective office, committee or board for the ensuing fiscal year. These estimates need to be accompanied by



explanatory statements of the reasons for any changes in the amounts appropriated for the same purpose in the current year.

- f) In the discharge of its duty, the Committee shall have free access to all books of record and accounts, bills, and vouchers regarding income or expenditures that have been or may be paid from the Treasury. Officers and committees and boards of the Town shall, upon request, furnish said committee with facts, figures, and any other information pertaining to their several activities.

Adopted March 1, 1948 (Article 27)  
Amended May 4, 1987 (Article 53)

### **Section 2.01 Capital Improvement Planning Committee**

- Part 1 The Town Moderator shall establish and appoint a five-member committee to be known as the Capital Improvement Planning Committee (CIPC). The CIPC will be composed of one member of the Finance Committee and four members-at-large. All members must be registered voters and shall not be employees of the town. The Town Manager shall be an ex-officio Committee staff member without the right to vote. The term of appointment to the Committee will be one year, commencing on the first day of July of the current year. The Committee shall choose its own officers.
- Part 2 The Committee shall define and study all proposed capital projects and improvements involving major non-recurring tangible assets and projects. All officers, boards and committees, including the Selectmen and the School Committee, shall give to the Committee on forms prepared by it the information needed to prepare a Capital Budget for Town Meeting. The Committee shall consider the relative need, impact, timing, cost and finding methodology of these capital expenditures and the effect each will have on the financial position of the Town and may make a report to the Finance Committee and Board of Selectmen.
- Part 3 The Committee shall recommend a Capital Budget for the next fiscal year and a Capital Improvement Program including recommended capital improvements for the following five fiscal years. The report shall be submitted to the Finance Committee and the Board of Selectmen for their consideration. The Capital Budget shall be presented to Town Meeting for adoption by the Town.
- Part 4 The Committee's recommended Capital Budget shall be published and made available to the public.

Adopted May 3, 1999 (Article 27)  
Adopted May 4, 2009 (Article 25)  
Amended May 4, 2015 (Article 24)

### **Section 2.02 Community Preservation Committee**

#### **Part 1: Establishment**

There is hereby established a permanent committee of the Town to be known as the Community Preservation Committee, consisting of nine (9) voting members, pursuant to §298 of Chapter 149 of the Acts of 2004, as amended, and G.L. c.44B §5. The composition of the committee, the appointing authority, and the term of office for the committee shall be as follows:

- (1) One member of the Conservation Commission as designated by the Commission;
- (2) One member of the Historical Commission as designated by the Commission;
- (3) One member of the Planning Board as designated by the Board;
- (4) One member of the Housing Authority as designated by the Authority;

- (5) One member of the Recreation Committee as designated by the Committee;
- (6) Four members as designated by the Board of Selectmen.

Each member of the committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier; provided, however, that the initial terms shall be staggered as follows: the initial appointment of the designee from the Conservation Commission, the Historical Commission, and one of the designees of the Board of Selectmen shall be for a term of one year; and the initial appointment of the designee of the Planning Board, the Housing Authority, and the second designee of the Board of Selectmen shall be for a term of two years; and the initial appointment of the designee from the Recreation Committee and the remaining two designees of the Board of Selectmen shall be for a term of three years.

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

Any member of the committee may be removed for cause by their representative appointing authority after hearing.

## Part 2: Duties

- (1) The community preservation committee shall study the needs, possibilities, and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the housing authority, the recreation committee, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, priorities, 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.
- (2) 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; for the acquisition, creation, and preservation of land for recreational use; for the creation, preservation, and support of community housing; and for the rehabilitation or restoration of such open space, land and 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. Recommendations to the Town Meeting shall also include the committee's anticipated costs. The placement of any and all articles recommended by the committee on the Town Meeting warrant shall require the approval of the Board of Selectmen.
- (3) The community preservation committee may include in its recommendation to Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.
- (4) 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 per cent of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use); not less than 10 per cent of the annual revenues in the Community

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

Part 3: Effective Date

Provided that the Community Preservation Act is accepted by the voters at the 2005 Annual Town Election, this bylaw shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of G.L. c.40, §32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

Adopted March 21, 2005, May 5, 2005 (Article 1)

**Section 2.03 Length of Contracts**

The Board of Selectmen and School Committee are hereby authorized to enter into contracts for goods and services for such period of time as the Selectmen and School Committee may determine, which may be longer than three years, but not more than ten years.

Adopted May 3, 2004 (Article 25)  
Amended May 2, 2011 (Article 28)

**Section 2.05 Bonds and Notes**

The Treasurer is authorized to engage counsel at the expense of the Town for the purpose of prosecuting any action at law under the provisions of the General Laws relating to suits on bonds, notes or other securities and for trespasses committed on any public buildings or inclosures belonging to the Town, but no bill shall be paid by him for services of counsel so employed until it has been approved by the Selectmen or a majority of the same.

Adopted March 1, 1948 (Article 27)

**Section 2.10 Disbursement of Town Funds**

No moneys shall be paid by the Town Treasurer unless upon an order signed by a majority of the Selectmen, except as is otherwise provided by law, by these ByLaws, or by the vote of the Town.

Adopted March 1, 1948 (Article 27)

**Section 2.15 Approval of Superintendent of Public Works Bills**

All bills contracted by the Superintendent of Public Works for work done on roads, bridges or any other purpose, shall be approved in writing by said Superintendent of Public Works and presented to the Selectmen for their approval.

Adopted March 1, 1948 (Article 27)

**Section 2.20 Report of Town Accountant**

At the close of each year the Town Accountant shall render an account to the Selectmen and shall furnish a report to them of all money received and paid by the Town Treasurer on behalf of the Town.

Adopted March 1, 1948 (Article 27)

**Section 2.25 Tax List and Warrant**

On or before the first day of September in each year, the Board of Assessors shall deliver the tax list and warrant for the current fiscal year to the Collector of Taxes.

Adopted March 1, 1948 (Article 27)  
Amended November 26, 1990 (Article 11)

### **Section 2.30 Authority of Collector of Taxes**

Unless the Town shall otherwise direct, the Collector of Taxes shall have authority to use all means of collecting the taxes which a Town Treasurer, when appointed Collector, may use.

Adopted March 1, 1948 (Article 27)  
Amended November 26, 1990 (Article 11)

### **Section 2.35 Betterment Assessments**

The layout and acceptance of any private way shall be done in accordance with Chapter 82, General Laws, and any betterment assessments shall be made in accordance with Chapter 80, General Laws. The Selectmen shall not recommend acceptance of a road layout by Town Meeting unless the owners of a majority of the assessable frontage abutting the way have agreed to accept the estimate of cost to be apportioned to each abutter, or unless the Selectmen shall determine by unanimous vote of their Board that a compelling public need exists for acceptance of that way. No betterments shall be assessed for improvements to any way accepted by the Town prior to approval of this article.

Adopted May 3, 1976 (Article 34)

### **Section 2.40 Printing of Town Reports**

The Selectmen shall print annually, a detailed report of the receipts and expenditures of the Town Treasurer of the preceding financial year, together with the reports of all the various officials and department heads of the Town both elected and appointed, as well as the reports of the School Committee and all other Boards and Committees. The Selectmen shall make the aforesaid printed report available to all taxpayers and legal voters of the Town at least seven (7) days before the Annual Town Meeting.

Adopted March 1, 1948 (Article 27)  
Amended November 26, 1990 (Article 10)

### **Section 2.45 Deeds and Instruments**

All deeds, conveyances, leases, discharges of mortgages, bonds, agreements, contracts or other instruments, which shall be given by the Town and which to be valid in law required to be signed, sealed and acknowledged, shall, unless other provision is or may be made by law or by a special vote of Town Meeting, be signed and acknowledged by the Selectmen or a majority of that Board in behalf of the Town.

Adopted March 1, 1948 (Article 27)

### **Section 2.50 Custody of Town Property**

The Selectmen shall have the care, custody and supervision of all Town buildings, commons, squares, or enclosures belonging to the Town, excepting such as by the Statutes of the Commonwealth are placed in charge of other Town Officials.

The Board of Selectmen may from time to time, after a public hearing, make reasonable rules and regulations for the use of Town property. Such rules and regulations shall take effect seven (7) days after their publication in a newspaper having general distribution in the Town of Sandwich.

Whoever violates these rules and regulations shall be punished by a fine of not more than two hundred (\$200.00) dollars.

Adopted March 1, 1948 (Article 27)  
Amended December 5, 1977 (Article 13)

### **Section 2.55 Legal Advice**

All boards and committees appointed or elected by the Town are authorized with the consent of the Selectmen, and not otherwise, to procure at the expense of the Town, legal advice, and bills so incurred shall be paid by the Treasurer upon their approval by the Selectmen or by a majority thereof. The Town may retain legal counsel who may also represent other public entities in matters in which the Town has a direct or substantial interest without violating G.L. c. 268A, Section 17(a) or (c). Such dual or common representation allows the Town to pool resources for a common purpose, develop mutual interests, and preserve scarce Town funds. Pursuant to this bylaw, the official duties of legal counsel include, but are not limited to, representing the Town and other public entities in: (i) administrative and judicial proceedings in which the Town is also a party; and (ii) other matters in which the Town has a direct or substantial interest, provided that in each instance, such dual or common representation would not cause a violation of rules governing attorney conduct. Legal counsel shall discharge such duties only when requested in writing by the Board of Selectmen. Prior to making such a request, the Board of Selectmen shall determine whether the interests of the Town will be advanced by such dual or common representation and shall evaluate if actual or potential conflicts of interest exist. If any conflicts are identified, they shall be described in the written request. Legal counsel shall then make its own determination whether such dual or common representation would not cause a violation of rules governing attorney conduct.

Adopted March 1, 1948 (Article 27)  
Amended May 2, 2011 (Article 27)

### **Section 2.60 Setting of Fees**

The Board of Selectmen may from time to time after a Public Hearing advertised in a newspaper having general distribution in the Town of Sandwich at least seven (7) days prior to said hearing, set reasonable fees and charges for services rendered by the Town of Sandwich not covered by Town ByLaw. In no case shall said fees or charges be levied in excess of the cost to provide those services.

Adopted May 5, 1981 (Article 55)

### **Section 2.61 Advertisements, Bills, Notices: Regulation**

No person shall post or affix in any manner, a notice, advertisement or bill upon a post, pole, fence, wall or building in the Town, unless he has previously obtained the consent of the person or persons having possession thereof. When Town property is involved, a permit must first be obtained from the Selectmen. Whoever violates this ByLaw shall be subject to a fine of twenty (\$20.) for each offense.

Adopted March 1, 1948 (Article 27)  
Amended May 6, 1991 (Article 41)

### **Section 2.65 Traffic and Directional Signs**

The Selectmen may erect traffic and directional signs wherever they deem them necessary and such signs shall conform to regulations of the State Department of Public Works.

No signs of any kind shall be erected or maintained that in any way obstruct the view of persons using the Highway.

Adopted March 6, 1950 (Article 46)

### **Section 2.70 Town ByLaws: Amending**

These ByLaws may be amended by a majority vote of any Town Meeting. Proposed amendments or articles for such purpose must be initiated in accordance with Section 1.05.

Adopted March 1, 1948 (Article 27)

Amended May 6, 1991 (Article 40)

### **Section 2.75 Town Equipment**

No person under the age of sixteen years shall be permitted to ride upon any fire apparatus owned by the Town.

Adopted March 1, 1948 (Article 27)

### **Section 2.80 Town ByLaws: Enforcement**

Any ByLaw of the Town of Sandwich, or rule or regulation of its boards, commission, and committees, the violation of which is subject to a specific penalty, may, in the discretion of the Town Official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the General Laws. "Enforcing person" shall mean any Selectman or any Police Officer of the Town of Sandwich, with respect to any offense; the Town Clerk, Dog Officer, Building Inspector, Conservation Agent, Harbormaster, Fire Officer or Inspector, Health Agent, Sealer of Weights and Measures and Tree Warden and their respective designees, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

The actual jurisdictions assigned to the appropriate enforcing person mentioned above shall be set forth by the Town Administrator in a detailed statement filed with the Selectmen and available for inspection.

Adopted March 1, 1948 (Article 27)

Amended May 6, 1991 (Article 40)

Amended May 4, 2004 (Article 38)

### **Section 2.85 Town ByLaws: Prosecution**

No person shall be prosecuted or tried for any breach of the provisions of any bylaw of the Town unless a complaint is made within thirty (30) days from the time the enforcing person becomes aware of such violation unless otherwise specified in these ByLaws or Massachusetts General Law.

Adopted March 1, 1948 (Article 27)

Amended May 21, 1986 (Article 75)

Amended May 6, 1991 (Article 40)

### **Section 2.90 Gas Inspector**

The Town accepted the following ByLaw, as authorized under Chapter 25 of the General Laws. The Selectmen shall annually appoint an inspector of gas piping and gas appliances in buildings whose duty shall be the enforcement of the rules and regulations adopted by the Board established under Section 12H of Chapter 25 of the General Laws (Ter.Ed.) and amendments thereto.

Adopted March 2, 1964 (Article 45)  
Amended May 5, 1981 (Article 56)

### **Section 2.95 Tax Title Land**

Deleted.

Adopted March 5, 1973 (Article 43)  
Amended May 5, 1980 (Article 69)  
Deleted November 18, 2002 (Article 2)

### **Section 2.96 Personnel Board**

This Section was deleted at the Annual Town Meeting held on May 7, 2001 (Article 29).

### **Section 2.97 Public Records and Open Meetings**

#### **Part 1 Purpose**

This ByLaw shall be known as the "Public Records and Open Meeting ByLaw". The purpose of this ByLaw is to ensure open access to public records and meetings; to provide for adequate disclosure of matters concerning the public interest and the accountability of Town Boards, Committees and Commissions; and to provide for strengthened local control and enforcement of the Commonwealth's Open Meeting Law, Chapter 30A, Sections 18-25, and the Public Records Law, Chapter 66 of the Massachusetts General Laws, and any related regulations or interpretations issued by the Attorney General or Secretary of State of the Commonwealth in effect at the time of adoption of this ByLaw.

- 1) The Town recognized the importance of:
  - a) Open public meetings
  - b) Properly posted public meeting notices
  - c) Accurate documentation of the record of all public meetings
  - d) Timely preparation of minutes
  - e) Timely filing of approved minutes with the Town Clerk
  - f) Record retention in accordance with State regulations
  - g) Audio sound (tape) recording of the meetings of key Town boards, committees, and commissions
  - h) Adequate and meaningful disclosure of ByLaw and Zoning ByLaw changes and changes to rules and regulations issued by units of Town government so empowered
  - i) Enforcement of the provisions of this ByLaw.

#### **Part 2 Administration**

This ByLaw shall be administered by the office of the Town Clerk, who may designate a person(s) to be the administrator(s) of public records. The Town Clerk shall promulgate such rules and regulations as are necessary to administer this ByLaw with the approval of the Board of Selectmen who shall hold a public hearing after providing seven (7) days notice of such hearing. The Town Clerk shall have the full power of enforcement to bring civil or criminal action to enforce the

provisions of this ByLaw. The Town Clerk must discover or have been made aware of a violation and shall not take action pursuant to Section 2.80 until:

- 1) A letter to the violator detailing the item(s) of noncompliance shall be sent within thirty (30) days of the violation; and,
- 2) The violator shall have been given twenty-one (21) days to remedy the violation or provide sufficient reasons to seek a waiver of compliance. Failure to respond to the Town Clerk within the stated time period shall be sufficient ground for immediate enforcement action

### Part 3 Jurisdiction

Because Regulatory Authorities subject citizens to fees, fines and regulations and the Town to possible litigation, the Town's interest is best served by requiring the following to comply with all provisions of this ByLaw: The Board of Selectmen, the Board of Assessors, the Planning Board, the Board of Health, the Sandwich Historic District Committee, the Zoning Board of Appeals, the Conservation Commission, and the Water Quality Review Committee, all hereafter referred to as "Regulatory Authorities."

### Part 4 Requirements

- 1) All Regulatory Authorities are required to:
  - a) Post notices of meetings in compliance with Chapter 30A, Sections 18-25 of Massachusetts General Laws.
  - b) Post a copy of the agenda at the Town Clerk's Office at least forty-eight hours prior to such meeting and supply to the public sufficient copies of the agenda at each meeting.
  - c) Document all meetings by written report in the form of minutes pursuant to Chapter 66, Sections 3, 4, 5A and 6 of the Massachusetts General Laws. Such minutes must be approved at the next scheduled meeting, or as soon as possible thereafter, and be filed with the Town Clerk within two (2) business days after approval.
  - d) Audio sound (tape) record of all meetings. Such tapes must be filed with the Town Clerk at the same time as the written minutes are filed.
- 2) Waivers of compliance may be granted with respect to Part 4, 1b and d above for reasons which the Town Clerk deems valid and which are not inconsistent with the Massachusetts General Laws.
- 3) The Town Clerk shall be required to maintain the audio tape records for a period of three (3) years. If, in the opinion of the Town Clerk or Board Chairman, retention is in the best interest of the Town, a longer period may be stipulated.

### Part 5 Public Advertising

- 1) All such regulatory authorities shall advertise notices of public hearings in the newspaper approved by the Selectmen for such legal purposes.
- 2) All Zoning and General Town ByLaw changes together with the complete text of current language shall be printed and made available to the voters of the Town simultaneously with the posting of the warrant.



## Part 6 Other Provisions

- 1) All other Town Boards, Committees, and Commissions not specified herein may elect to audio record their meetings. If such election is made to audio record some or all meetings, the filing requirements herein shall also apply.
- 2) All other Town Boards, Committees or Commissions not specified herein must post notices of meetings and record the business of their meeting in accordance with this Bylaw and Massachusetts General Laws.
- 3) Regulatory Authorities shall not be required to provide audio tape recordings of workshop meetings and meetings held in executive session.
- 4) Video recordings shall not be substituted for audio recordings, but shall be submitted to the Town Clerk together with the audio recording.

## Part 7 Penalties

A violation of this ByLaw may be punished by a fine of three hundred (\$300.00) per offense.

Adopted May 6, 1991 (Article 42)  
Amended May 2, 2011 (Article 29)

## **Section 2.98 Organization of Committees, Boards and Commissions**

- Part 1 Committees, Boards and Commissions may be appointed by the Selectmen, formed by Town Meeting vote or as otherwise specified by any General Law, Special Law or Town ByLaw (“appointing authority”). Committees, Boards and Commissions shall be designated as (“temporary” or “permanent”). Members of permanent committees shall serve for staggered three-year terms unless otherwise provided. Temporary committees shall not be formed with terms to exceed three years, subject to annual review by their appointing authority.
- Part 2 When a Committee, Board or Commission is created, it shall be the duty of the Selectmen to appoint a pro tem Chairman and direct him/her to call the first organizational meeting as soon as practicable. Each Committee, Board or Commission (elected or appointed) shall annually elect one of its members as Chairman. A member may hold the position of Chairman for no longer than two consecutive years except for the time served filling the unexpired term of the previous Chairman.
- Part 3 Reports by any permanent or temporary Committee, Board or Commission shall be submitted annually to the Town in written form unless specific instructions otherwise are made by its appointing authority. If no report is made by a Committee, Board or Commission, it may be discharged by its appointing authority.
- Part 4 Except as otherwise provided herein, any Board, Committee or Commission may be continued or terminated only by its appointing authority. Those established pursuant to any legislative acts of the Commonwealth of Massachusetts and accepted by the Town are exempt from this requirement. Committees, Boards and Commissions appointed by Town Meeting vote can be terminated only by Town Meeting vote.

Adopted May 6, 1991 (Article 43)

## **Section 2.99 Recall of Elected Officials**

- Part 1 Any holder of an elected office in the Town of Sandwich may be recalled therefrom by the qualified voters of the Town as provided in Chapter 408 of the Acts of 1987 for reasons which include but are not limited to the following: embezzlement; influence peddling; refusal to abide by or not comply with the Conflict of Interest Law, Open Meeting Law, Public Records Law, rules and regulations thereto, and the ByLaws of the Town of Sandwich which pertains to same; destruction or alteration of public records; nepotism; conviction for a felony; failure to perform the duties of the elected office; or other willful acts of omission or commission which betray the public trust.
- Part 2 A recall petition shall be initiated by request of ten (10) qualified voters. The recall petition shall be signed by twenty-five per cent (25%) of the qualified voters and returned within twenty (20) days in accordance with the aforementioned Special Legislative Act.

Adopted May 6, 1991 (Article 44)

## CHAPTER 3 PUBLIC SAFETY AND ORDER

### Section 3.00 Privacy

No person, except an officer of the law in the performance of his duties, shall enter upon the premises of another with the intention of peeping into the windows of a house or spying upon in any manner any person or persons therein. Any person found violating this bylaw is subject to arrest without a warrant in accordance with Chapter 276, Section 28, Massachusetts General Laws. The penalty for a violation of this bylaw shall be a fine not to exceed two hundred (\$200.00) dollars per offense.

Adopted March 3, 1952 (Article 34)  
Amended May 2, 1988 (Article 24)

### Section 3.05 Airport Approach Use

- Part 1 A bylaw regulating and restricting the height of structures or objects of natural growth in the vicinity of Otis Air Force Base Airport by the creation of airport approach protection regulations and establishing boundaries thereof.
- Part 2 In pursuance of the authority conferred by Chapter 90, Section 40-A through 40-I inclusive of the General Laws and for the purpose of promoting the health, safety and general welfare of the public by preventing the creation, establishment and maintenance of airport hazards, thereby protecting the lives and property of users of the Otis Air Force Base and of the occupants of land in its vicinity and preventing destruction or impairment of the airport and the public investment therein.
- Part 3 This bylaw shall be known and cited as the "Airport Approach Protection Bylaw of the Otis Air Force Base."
- Part 4 As used in this bylaw, unless the context otherwise requires:
- a) "Airport" means the Otis Air Force Base.
  - b) "Airport Approach Zone" means any airspace above the areas defined and shown on a map entitled Map of Approach Zone, Otis Air Force Base, Sandwich, MA, dated February 4, 1958, which is attached hereto and made a part hereof.
  - c) "Airport Hazard" means any structure or tree which extends into any airport approach zone.
  - d) "Administrative Agency" means the Sandwich Board of Selectmen which is hereby designated as the agency charged with administering the regulations herein prescribed.
  - e) "Persons" means any individual, firm, partnership, corporation, company, association, joint stock association, and includes any trustee, receiver, assignee or other similar representative thereof.
  - f) "Structure" means any object or structure installed by man, including any object regulated or licensed under any other provision of law.
  - g) "Tree" means a tree or other object of natural growth.
- Part 5 It is hereby declared that the existence of any airport hazard endangers the lives and property of the users of the Otis Air Force Base and the occupants of the land in its vicinity, and affects a reduction of the area available for the landing, taking off and maneuvering of

aircraft, thus tending to impair the utility of the airport and the public investment therein. Accordingly, it is necessary in the interest of public health, safety and general welfare that the creation, establishment or maintenance of airport hazards be prevented by exercise of police power, without compensation to any person, except as herein specifically provided.

Part 6 Except as otherwise provided in this bylaw, no structure may be erected or altered or any tree permitted to grow or be maintained to a height which would exceed the elevation as shown and indicated on the map referred to in Part 4.

Part 7 The limitations prescribed in this bylaw shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to these regulations as of the effective date thereof or otherwise interfere with the continuance of any such nonconforming use. Nothing herein contained shall be construed to permit any such nonconforming structure or tree to be substantially altered or repaired, rebuilt, allowed to grow or replanted so as to become a greater hazard to air navigation than it was on the effective date of the bylaw.

Part 8 The Sandwich Board of Selectmen is hereby designated as the Administrative Agency charged with the duty of administering and enforcing the regulations herein prescribed. The duties of such agency shall include that of hearing and deciding all permits under Section 7.

Part 9 Any person desiring to erect or increase the height of any structure or to permit the growth of any tree, in a manner not conforming to the Airport Approach Protection Regulations as herein established, or to establish the right so to do may apply to the Sandwich Planning Board for a variance from the regulations applicable to this property. Such variance may be allowed where a literal application or enforcement of such regulation would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to public interest. Any permit or variance granted under this section shall be conditioned as to require the owner of the structure or tree to permit the United States Air Force as its own expense to install, operate and maintain suitable obstruction markings or obstruction lights thereon.

Part 10 This bylaw shall have full force and effect from and after the date of this adoption.

Adopted March 3, 1958 (Article 19)

### **Section 3.10 Alcoholic Beverages: Consumption in Public**

Part 1 The Town accepted the following bylaw as authorized under Chapter 40, Section 21, Paragraph 1 of the Massachusetts General Laws.

Part 2 It shall be unlawful for any person to consume alcoholic beverages on public highways, parks, commons, sidewalks, or in public parking places, including vehicles, without a special permit issued by the Board of Selectmen, thereon, within the Town of Sandwich. Whoever violates this bylaw shall be fined in an amount not to exceed two hundred (\$200.00) dollars for each offense.

Adopted March 2, 1964 (Article 43)

Amended May 2, 1978 (Article 47)

### **Section 3.15 Alcoholic Beverages: Possession by Minor**

Part 1 The Town accepted the following bylaw as authorized under Chapter 40, Section 21, Paragraph 1 of the General Laws:

Part 2 It shall be unlawful for any person who has not attained legal drinking age in accordance

with Massachusetts General Laws to consume or to have in his or her possession alcoholic beverages in public places within the Town of Sandwich. Whoever violates the provisions of this bylaw shall be fined in an amount not exceeding two hundred (\$200.00) dollars for each offense.

Adopted March 2, 1964 (Article 42)  
Amended May 6, 1974 (Article 31)  
Amended May 7, 1979 (Article 52)  
Amended May 2, 1988 (Article 25)

## **Section 3.17 Public Use or Consumption of Marijuana**

### Part 1. Definitions

The following definitions shall apply to this bylaw.

Marijuana shall mean marijuana (or tetrahydrocannabinol) as defined in section 1 of chapter 94C, as amended, of the Massachusetts General Laws.

Consume shall mean taking into the human body by means of inhalation, ingestion, absorption or injection.

### Part 2. Public Consumption Prohibited

No person shall smoke, burn, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in M.G.L. 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, dock, bridge, park, playground, beach, boardwalk, recreation area, boat landing, public building, school building, school grounds, cemetery, parking lot; any place to which the public has a right of access as invitees or licensees; or in or upon any bus or other passenger conveyance operated by a common carrier; or in or upon any place accessible to the public.

### Part 3. Seizure of Marijuana in Violation

Any marijuana or tetrahydrocannabinol burned, smoked, ingested, or otherwise used or consumed in violation of this bylaw shall be seized, held, and disposed of in accordance with M.G.L. c. 94C, § 47A.

### Part 4. Identification of Person(s) Found in Violation

Any person found in violation of this bylaw shall, when requested by an official authorized to enforce this bylaw, provide his or her full legal name, date of birth and address.

### Part 5. Enforcement of Bylaw

This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. c. 40, § 21 or by noncriminal disposition pursuant to M.G.L. c. 40 § 21D, by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer.

### Part 6. Penalties

The fine for violation of this bylaw shall be \$300 for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under M.G.L. c. 94C, § 32L.

### Part 7. Severability

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

Adopted May 2, 2016 (Article 24)

### **Section 3.20 Public Beaches: Congregation**

It shall be unlawful for any group of persons to congregate on any public beach within the Town of Sandwich between the hours of 10:00 P.M. and 7:00 A.M., without first obtaining a special permit from the Police Department indicating the event or occasion for such permit, the date, time and place thereof, and the persons responsible for cleaning up any beach area used therefor. Any person violating this bylaw shall be punished by a fine of not more than two hundred (\$200.00) dollars for each offense.

Adopted June 22, 1970 (Article 6)  
Amended May 2, 1988 (Article 25)

### **Section 3.25 Public Ways: Obstruction to Travelers**

No person shall saunter or loiter in a street or on a sidewalk in such manner as to obstruct travelers but nothing in this section shall be construed to curtail, abridge, or limit the right of any person to exercise the right of peaceful persuasion guaranteed by Section 24, Chapter 149 of the General Laws, or to curtail, abridge, or limit the intendment of any statute of the Commonwealth of Massachusetts. Whoever violates this bylaw shall be punished by a fine of not more than fifty (\$50.00) dollars for each offense.

Adopted June 22, 1970 (Article 4)

### **Section 3.30 Profane Language: Addressing Others in Public**

No person shall in any street, or other public place, accost or address another person with profane or obscene language. Any person violating this bylaw shall be punished by a fine of not more than fifty (\$50.00) dollars for each offense.

Adopted June 22, 1970 (Article 3)

### **Section 3.35 Tenting, Camping, Sleeping in Public**

No person shall between the hours of 8:00 P.M. and 8:00 A.M. on private property without the written permission of the landowner or on Town-owned property without the permission of the Selectmen set up a tent, camp, sleep in a vehicle, or sleep in the open within the limits of the Town of Sandwich. Any person violating this bylaw shall be punished by a fine of not more than two hundred (\$200.00) dollars.

Adopted March 1, 1948 (Article 27)  
Amended August 9, 1971 (Article 10)  
Amended May 2, 1978 (Article 48)

### **Section 3.45 Alarm System Use**

Part 1 An automatic dialing device shall not be connected to the emergency or regular business

lines of the Police Department. A signal from an automatic dialing device received at the Police Station shall terminate only on the line or lines specifically designated for that purpose.

- Part 2 All alarm systems excluding mechanical fire alarms installed with an outside audible horn, bell, siren or other signal shall be equipped with a device that will shut off such signal within thirty (30) minutes after the activation of the alarm system.
- Part 3 Alarms directly connected to the Police Department shall be connected in such a manner that the signal transmitted specially identified either intrusion or holdup.
- Part 4 The Selectmen may, upon recommendation of the Police Chief, make procedural rules and regulations regarding false alarms, after a public hearing.
- Part 5 All alarm systems connected to the Police Station which are not presently in compliance with this bylaw shall be in compliance by October 1, 1981.
- Part 6 The owner of such an alarm system, after receiving written notice from the Chief of Police, and fails to comply with this bylaw shall be punished by a fine of fifth (\$50.00) dollars.
- Part 7 All structures or facilities that have a fire alarm system or fire protection systems that automatically summon the Fire Department shall install a key-holding device (lock box). The type and location of said device shall be approved by the Fire Department and shall be of sufficient capacity to hold all materials needed to gain access and/or take control of the alarm or suppression system. All structures and sites subject to the provisions of this bylaw shall be equipped with an approved device within two years after acceptance of the bylaw.
- Part 7A The owner of an alarm system that automatically summons the Fire Department, including automatic fire sprinklers, shall install the required lock box at the time the system is installed. As to any such alarm system or sprinkler system that was installed prior to the effective date of this bylaw and for which a lock box was not and has not been installed, the owner shall install the required lock box within thirty (30) business days after the effective date of this bylaw. Any owner who receives a written notice from the Fire Chief or his or her designee and fails or refuses to comply with this bylaw within thirty (30) business days after receipt of the notice shall be punished by a fine of \$50.00 per day until the lock box is installed.
  - Adopted May 5, 1981 (Article 58)
  - Amended May 3, 1993 (Article 59)
  - Amended May 5, 2003 (Article 35)

**Section 3.50 Fire Lane Use**

- Part 1 It shall be unlawful to obstruct or block a public way, private way, or parking lot with a vehicle or other means so as to prevent access by any fire apparatus, emergency equipment or ambulance to any building within the limits of the Town of Sandwich.
- Part 2 It shall be unlawful to obstruct or park any vehicle in any fire lane, such fire lane to be designated by the Fire Chief and posted and marked as such. Said fire lane shall be at a sidewalk for a mall, shopping center, public building, hotel or nursing home. In a commercial or other area where no sidewalks with curbing exist, the distance shall be eighteen (18) feet from the building.
- Part 3 The building owner of record shall provide, install and maintain signs and striping as provided in Part 2 of this section.
- Part 4 This bylaw shall be enforced by the Police Department of the Town of Sandwich in accordance with the provisions of Massachusetts General Laws, Chapter 90, Section 20A.

- Part 5 Any vehicle left standing in violation of the bylaw may be removed in conformance with Massachusetts General Law, Chapter 40, Section 22D and any violation of this bylaw shall result in a penalty of not more than twenty-five (\$25.00) dollars per offense.
- Part 6 Minimum Fire Lane Standards: Yellow lines at least four (4) inches wide shall be painted on a diagonal from the point of origin to the curb or sidewalk. Minimum width of a fire lane shall be eight (8) feet from a curb or sidewalk. The words "Fire Lane" shall be painted within the yellow-lined area.
- Part 7 Signs: Minimum sign language shall consist of "No Parking, Fire Lane, Tow Zone" on a sign at least twelve (12) inches wide by sixteen (16) inches high with red letters and border on a white background.
- Part 8 Signs shall be securely mounted at least six (6) feet but not more than eight (8) feet above grade. Signs shall be erected not less than twenty-five (25) feet nor more than fifty (50) feet apart along the length of the fire lane.

Adopted September 28, 1987 (Article 10)  
Amended September 16, 1991 (Article 28)

### **Section 3.55 Noise**

It shall be unlawful for any person or persons present or having charge of any building, premises, motor vehicle, boat or conveyance or any part thereof in the Town, other than that section of any establishment licensed under Chapter 138 of the General Laws, to cause or suffer to allow any unnecessary, loud, excessive or unusual noises in the operation of any mechanical or electronic sound-making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noises or loud or boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise, where such noise is plainly audible at a distance of one hundred fifty (150) feet from the building, premises, motor vehicle, boat or conveyance in or from which it originates and shall constitute prima facie evidence of a violation of this Bylaw.

It shall be unlawful for any person or persons being in control of a motor vehicle to cause an unnecessary, loud, excessive, or unusual noise in the operation of such vehicle. It shall be unlawful for any person or persons present or having charge of any building, premises, motor vehicle, boat or conveyance or any part thereof, to construct or reconstruct any building, premises, motor vehicle, boat or conveyance or any part thereof, and cause or emit any sound or noise evident to an abutting property between the hours of 8:00 P.M. and 7:00 A.M. Any person violating this Bylaw shall be punished by a fine of not more than three hundred (\$300.00) dollars for each offense.

Adopted March 7, 1966 (Article 40)  
Amended May 2, 1988 (Article 27)  
Amended May 2, 1994 (Article 41)  
Amended May 3, 1999 (Article 42)

### **Section 3.60 Numbering of Buildings**

- Part 1 Every building used for a dwelling house or place of business in the Town of Sandwich shall bear in a conspicuous place on the portion of the building facing the street, or if not visible from the street, on a suitable post or object so visible, the number assigned to it by the Selectmen, as hereinafter provided, in clear and legible numbers.



- Part 2 Prior to the application for a building permit for a dwelling house or place of business, the applicant shall obtain the correct street number from the Selectmen. This street number shall appear on such application for a building permit.
- Part 3 The street number shall be subject to the approval of the Board of Selectmen as regards material, size and location.
- Part 4 All new dwelling houses or places of business erected or located in the Town must have street numbers affixed within six (6) months of the date of occupancy. Street numbers for existing buildings shall be as assigned by the Selectmen.
- Part 5 Any person who fails to affix an assigned street number or who unlawfully removes, defaces or changes a number affixed to a building under this bylaw or affixes thereto a number other than that assigned to it by the Selectmen, shall be punished by a fine of not more than twenty (\$20.00) dollars.

Adopted March 6, 1967 (Article 26)

**Section 3.65 Unregistered Vehicle Storage**

- Part 1 No person shall permit more than one unregistered motor vehicle or trailer or major part thereof, except for farm vehicles, to remain ungaraged on his premises at any time unless under a Class 1 or Class 2 license for sale of Motor Vehicles (Section 57-69, Chapter 140, Massachusetts General Laws), or unless given written authorization by the Selectmen following an investigation and report thereon by the Board of Health. Authorization shall be granted only if no hazard to health or safety is involved, and no unsightly conditions visible from adjacent property or public ways are created. In no event shall an unregistered motor vehicle or trailer or parts thereof, be stored within a required front yard.
- Part 2 This bylaw shall be administered by the Chief of Police. Any person violating any of the provisions of this Bylaw shall be fined not more than fifty (\$50.00) dollars for each offense, and each day of violation shall be considered a separate offense

Adopted September 25, 1972 (Article 19)  
Amended May 3, 1976 (Article 24)

**Section 3.70 Motor Vehicle: Operation on Town-owned Property**

- Part 1 No person shall operate a motor vehicle, as defined in Chapter 90, Section 1 of the Massachusetts General Laws, on beaches, dunes, parks or conservation areas owned by the Town of Sandwich except on trails marked and approved by the Selectmen and the Conservation Commission.
- Part 2 No person shall operate a motor vehicle, as defined in Chapter 90, Section 1 of the Massachusetts General Laws, on any fields, lawns or other areas that are under the jurisdiction of the Sandwich School Committee except those areas designated as parking lots or driveways.
- Part 3 Any person violating this bylaw shall be punished by a fine of two hundred (\$200.00) dollars for each offense. Any officer authorized to make arrests may arrest without warrant anyone who in his presence violates this bylaw.

Adopted May 5, 1980 (Article 16)  
Amended September 16, 1991 (Article 29)

**Section 3.75 Animal Control**

- Part 1. Purpose and Relation to Massachusetts General Laws

The purpose of animal control is to encourage the safe and humane treatment of animals and the maintenance of a safe environment for humans. Ultimately, it is the individual's responsibility to properly care for his/her animal(s) and to respect the rights of others.

In addition to the requirements set forth in this bylaw, the licensing, keeping and control of animals shall be in accordance with all applicable provisions of the Massachusetts General Laws, including but not limited to the provisions of M.G.L. c. 140, §§136A to 174E, inclusive, which provisions are incorporated herein.

#### Part 2. Board of Selectmen and Animal Control Officers

The Board of Selectmen act as Hearing Authority for purposes of M.G.L. c. 140, §157 and shall annually appoint an Animal Control Officer who shall be sworn in by the Town Clerk.

#### Part 3. Licenses

Annual dog and kennel licenses, as required by M.G.L. c. 140, §§137 and 137A, must be obtained from the Office of the Town Clerk by January 1 for a licensing period of January 1 through December 31. When licensing a dog for the first time, proof of spay or neutering should be presented in order to be eligible for neutered or spayed ("fixed") license fee. There will be a late fee per dog for licensing after June 30<sup>th</sup>.

Subject to approval of the Board of Selectmen, annual dog and kennel licensing may be conducted by mail.

The Clerk of the Town shall issue dog licenses and tags on a form prescribed and furnished by the Town. On the license form the Clerk shall record the name, address, phone number and the date of birth of the owner or keeper of the dog and the name, license number and description of each dog. Each tag shall include the license number, the name of the Town and the year of issue.

No kennel license shall be issued unless the applicant demonstrates that the use of the subject property as a kennel is permitted under the Town's Zoning bylaws.

#### Cat Licensing

Each cat must be licensed in accordance with rules and regulations adopted by the Board of Selectmen.

Adopted May 4, 1992 (Article 52)

#### Part 4. Fees

The Board of Selectmen shall from time-to-time establish the fees to be charged for individual dog and kennel licenses, including late fees for licenses not obtained by the dates specified herein. Said schedule of fees is on record at the Town Clerk's Office, DNR and Town Manager's Office and is available to the public.

No fee shall be charged for a license issued under this section for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

No fee shall be charged for a license issued to a working police canine.

#### Part 5. Leashing and Restraint

Any person owning or keeping a dog shall not allow it to run at large in any of the streets or public places in the Town of Sandwich or upon premises other than the premises of such owner or keeper, unless the owner or lawful occupant of such other premises grants permission therefor. No dog shall be allowed in any public place or street within the Town unless it is effectively restrained or unless it is confined within a motor vehicle. A dog is under restraint for purposes of this Bylaw if it is accompanied by its owner or other person responsible for the dog, who is in full control and such dog is securely restrained with a collar and leash or such dog is under the immediate and effective voice control. To be under effective voice control for purposes of this bylaw, the dog must be within the keeper's sight and the keeper must be carrying a leash.

Unrestrained or unlicensed dogs may be sought out, caught and confined by the Animal Control Officer or any police officer of the Town, and impounded pursuant to M.G.L. c. 140, §§151A and 167.

Nothing in this Part shall be deemed to prohibit the use of dogs for hunting, sporting, public safety or working purposes as long as said dogs are properly restrained.

This Part shall not apply to a service dog. For purposes of this bylaw, a service dog is a dog specially trained to perform tasks for the benefit of an individual with a disability, including but not limited to guiding individuals with impaired vision, alerting persons with impaired hearing, or providing other similar assistance to individuals.

#### Part 6. Beaches

It shall be unlawful for the owner, keeper, or person responsible for any dog to permit it to be on any public beach, including fresh water beaches, and the Sandwich Boardwalk between May 15 and September 15. Dogs are not allowed on salt water town beaches between April 1 and September 15.

#### Part 7. Impoundment

It shall be the duty of the Animal Control Officer to apprehend any dog found running at large and to impound such dog in the Town holding facility or another boarding facility.

The Animal Control Officer shall keep a record of each dog impounded, which shall contain the following information: breed, color and sex, together with whether or not the dog is licensed, the license number, if any, and the name and address of the owner, if known.

The owner or keeper of any dog impounded under the provisions of M.G.L. c. 140, §167 may claim such dog, provided he or she first procures from the Town Clerk a license and tag for any such dog that is not licensed and pays a sum established by the Animal Control Officer for daily per cost of the care of the dog during the period of impoundment.

#### Part 8. Removal of Waste

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. Anyone having custody or control of a dog in a public place shall have in his or her possession a device or equipment to pick up and remove dog feces. Individuals with disabilities aided by service dogs and law enforcement, emergency or rescue officials with dogs carrying out official duties are exempt from this section.

#### Part 9. Enforcement and Penalties

The Animal Control Officer, Natural Resource Officer, or any police officer or special police officer of the Town shall be empowered to enforce provisions of this Bylaw.

In addition to the remedies set forth herein and in M.G.L. c. 140, §§136A to 174E, inclusive, or any other applicable provision of law, this Bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, non-criminal disposition pursuant to G.L. c. 40, §21D. If non-criminal disposition is elected, then any person who violates any provision of this by-law shall be subject to the following penalties:

First Offense:	\$50 fine
Second Offense:	\$100 fine
Third and Subsequent Offense:	\$200 fine

Subsequent offenses shall be determined as offenses occurring within two years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

The Town may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.

Adopted May 4, 1992 (Article 52)  
Amended May 2, 2016 (Article 23)

### **Section 3.80 Motor Boat Operations: Snake Pond**

This section was deleted at the Special Town Meeting held on March 19, 2001 (Article 3).

### **Section 3.90 Dune Protection**

Part 1. No person or pet shall enter upon or cross over any dune on Town property including any Conservation Lands, whether by walking or in a vehicle, including bicycles, except at an authorized marked crossover or designated beach access, other than in the performance of duties of a federal, state or Town official. Owners shall be responsible for keeping pets off of the dunes.

Part 2. It shall be unlawful for any person or pet to damage, destroy or remove any Town owned sand dune or part thereof, or to kill, destroy or remove any grass, shrubbery, trees or other vegetation growing on sand dunes unless authorized by the Town Manager.

Part 3. Enforcement:

- (a) This bylaw may be enforced by any Natural Resources Officer, Animal Control Officer, Assistant or Deputy Animal Control Officer, Harbormaster, Assistant Harbormaster, Shellfish Constable, Deputy Shellfish Constable, Recreation Department Employee, Police Officer or Special Police Officer.
- (b) Whoever violates any provision of this bylaw may be penalized by a noncriminal disposition process as provided in M.G.L. c.40, §21D and the Town's non-criminal disposition by-law. If noncriminal disposition is elected, then any person who violates any provision of this by-law shall be subject to a fine of two hundred dollars (\$200) for each offense. Each day a violation exists shall constitute a separate offense.
- (c) Whoever violates any provision of this bylaw 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 shall be three hundred dollars.

Any violations of the terms of this Bylaw shall be considered an act of trespass, and may subject the violator to arrest and removal from the beach pursuant to Massachusetts General Laws, Chapter 266, Section 120.

**Adopted May 2, 2016 (Article 22)**

## **CHAPTER 4 PUBLIC HEALTH**

### **Section 4.00 Illegal Disposal**

- Part 1 It shall be unlawful to throw, place, drop, sweep into, deposit, or leave on any street, Town-owned property, conservation land, or other public property any litter including, but not limited to: rubbish; garbage; tires, abandoned vehicles; construction materials; stumps; brush; tree limbs; hedge and grass trimmings; noxious, chemical, hazardous, or dangerous refuse; or any other offensive substance or waste. There shall be no exception, other than duly authorized deposit(s) at the Solid Waste Transfer Station or Septage Lagoon in conformance with the rules and regulations thereof.
- Part 2 Who ever violates this section shall be responsible for the clean-up, including any costs thereof, and subject to a fine of three hundred (\$300.00) dollars for each offense. In the event that a clean-up is necessary, each day until completion shall be considered a separate offense.

Adopted March 1, 1948 (Article 27)

Amended May 5, 1981 (Article 45)

Amended May 6, 1991 (Article 41)

### **Section 4.05 Tobacco Products: Sale to Minors**

- Part 1 It shall be unlawful for any person, in the Town of Sandwich, to sell cigarettes, cigars, chewing tobacco, snuff or any other tobacco product to a person under the age of eighteen or, not being their parent or guardian, give cigarettes, cigars, chewing tobacco, snuff or any other tobacco product to any person under eighteen.
- Part 2 Violation of this ByLaw shall result in a fine of not less than one hundred (\$100.00) dollars for the first offense, two hundred (\$200.00) dollars for the second offense and three hundred (\$300.00) dollars for the third and subsequent offenses.
- Part 3 It shall be lawful to prohibit the sale of rolling papers in the Town of Sandwich. Any person(s) violating this ByLaw will be fined twenty-five (\$25.00) dollars for the first offense and fifty (\$50.00) dollars for second or subsequent offenses.

Adopted May 12, 1986 (Article 34)

Amended May 4, 1987 (Article 62)

### **Section 4.10 Trash Hauler Licensing**

- Part 1 All trash haulers must be licensed by the Board of Health and must comply with all Board of Health Regulations and all of the Upper Cape Regional Transfer Station ("UCRTS") Board of Managers' rules and regulations and amendments.
- Part 2 All trash haulers licensed by the Board of Health in the Town of Sandwich must transfer their refuse loads to either the UCRTS, which is a Board of Health approved site, or any

other site approved by the Board of Health. In the case of the UCRTS, trash haulers must follow the route specified in the UCRTS rules and regulations. No refuse loads may be disposed of at any other site other than the one approved by the Board of Health.

- Part 3 All haulers licensed by the Board of Health in the Town of Sandwich must submit a payment bond to the Town in the amount of ten thousand (\$10,000.00) dollars or such lesser amount as determined by the Board of Health, to be appropriate and consistent with the tonnage billed to the hauler.
- Part 4 Any violation of this ByLaw as determined by the Board of Health in accordance with Section 5 may result in the following in the discretion of the Board of Health.
- a. Revocation or suspension of license to transport refuse in the Town of Sandwich by the Board of Health.
  - b. Forfeiture of payment bond, in full or in part, depending upon the amount of money owed the Town by the trash hauler in unpaid fees.
  - c. Imposition by the Board of Health of all other applicable fines including those set forth in Massachusetts General Laws, Chapter 111, Section 31B and in the UCRTS rules and regulations.
- Part 5 Prior to imposing any of the penalties set out in Section 4, the Board of Health shall give notice to the trash hauler and hold a hearing in accordance with the following procedure.
- a. The Board of Health shall notify the trash hauler of the hearing at least ten (10) days prior to the date on which it is scheduled to be held.
  - b. The notice shall state the nature of the violation and the date, place, and time of the hearing.
  - c. The hearing will be held before the Board of Health and will afford the trash hauler a reasonable opportunity to be heard.
  - d. The hearing will be conducted without regard to or restriction by technical rules of evidence or procedure.

Adopted September 16, 1991 (Article 3)

## CHAPTER 5 PUBLIC WAYS

### Section 5.00 Driveways: Construction of

The Board of Selectmen may adopt and from time to time amend reasonable regulations governing alignment, width, profile, and construction of the portions of driveways constructed within street rights-of-way, so as to ensure drainage adequacy and safety of access and egress, and requiring that written permits be issued by the Board of Selectmen or a person designated by them for all future driveway entrances or relocation of existing entrances.

Lots with frontage on more than one way shall maintain a driveway on the lesser traveled way as defined in the Town of Sandwich Protective Zoning Bylaw and in Subdivision Rules and Regulations of the Sandwich Planning Board.

Adopted May 6, 1974 (Article 39)  
Amended September 16, 1991 (Article 8)

### Section 5.05 Public Ways: Obstruction by Animal

No person shall allow any animal under his care to obstruct any sidewalk or public way. Whoever violates this ByLaw shall be subject to a fine of twenty (\$20.00) dollars for each offense.

Adopted March 1, 1948 (Article 27)  
Amended May 6, 1991 (Article 41)

### Section 5.10 Public Ways: Moving Buildings Thereon

Part 1 It shall be unlawful to move a building over a public street without the written consent of the Selectmen. The Selectmen shall require a bond or other financial security from the owner or the mover of the building in a reasonable amount sufficient to cover potential damages. The owner or mover shall also be required to reimburse the Town for all sums which the Town incurs from this use of a public way.

Part 2 Whoever violates this section shall be subject to a cease-and-desist order and/or a fine of three hundred (\$300.00) dollars for each offense. Each day that a cease-and-desist order remains in effect shall constitute a separate offense.

Adopted March 1, 1948 (Article 27)  
Amended May 6, 1991 (Article 41)

### Section 5.15, Scenic Roads

#### Section 1: Purpose

The purpose of this bylaw is to maintain the scenic beauty, aesthetic value and historic significance of certain roads in the Town of Sandwich by designating them as "Scenic Roads". For a road that has been designated as a Scenic Road, any repair, maintenance, reconstruction or paving work done with respect thereto shall not involve or include the cutting down or removal of significant trees, or the tearing down or burial, relocation or destruction of stone walls, or portions thereof, except with the prior written consent of the Planning Board in accordance with the regulations of G.L. Chapter 40, Section 15c, paragraph 2.

#### Section 2: Authority

The enactment of this bylaw is authorized by Massachusetts General Laws, Chapter 40, Section 15C.

### **Section 3: Definitions**

In the absence of any contrary meaning established through legislation or judicial action in regard to MGL Chapter 40, Section 15C, the following terms contained in said statute and used in this Bylaw shall mean and be construed as follows:

**Cutting or Removal of Trees:** cutting or removing any of the following or any combination of the following:

1. One or more tree trunks having a diameter of nine (9) inches or more measured four feet above the ground, or
2. Two or more tree trunks having a diameter of six (6) inches or more measured four feet above the ground, or
3. Seven or more limbs, roots of more than four (4) inches in diameter where cut, on a single tree.

**Repair, Maintenance, Reconstruction or Paving Work:** Any such work done within the right-of-way by any person or agency, public or private, including roadway widening and/or construction of a new private driveway within the right-of-way, but not including utility work in trees not affecting the road itself.

**Road:** Any road in Sandwich, including a public road, private road, or paper road, other than a state highway or a numbered route unless the entire length of the numbered route is contained within the boundaries of Sandwich and no part of the numbered route is owned or maintained by the Commonwealth.

**Scenic Road:** Any eligible road or portion of a road designated as a Scenic Road by vote of Town Meeting pursuant to this bylaw or G.L. Chapter 40, Section 15C.

**Scenic Road Boundary:** The right-of-way line of such a road and shall include anything touching or located on the right-of-way line.

**Significant Tree:** A living tree with a trunk circumference of two feet or more as measured twenty-four inches above the ground.

**Stone Wall:** Any structure of natural stones, cut or uncut, that is built to order, enclose, divide or define an area, regardless of the condition of that structure.

### **Section 4: Designation of a Scenic Road**

**4.1 Consideration for Scenic Road Designation:** In determining which roads or portions of roads should be recommended for designation as Scenic Roads, the following criteria shall be considered:

1. Overall scenic beauty.
2. Overarching tree canopy and other contribution of vegetation to scenic beauty.
3. Contribution of stone walls, fences, narrow shoulders and other elements, natural or man-made, to scenic beauty.
4. Age and historic significance of way, trees and stone walls, including preservation of historic way width, grade and alignment.
5. Potential for lessening of scenic beauty, aesthetic value or historical significance of natural and man-made features by alteration.

**4.2 procedure for Designation of a Scenic Road:** Upon recommendation or request of the Planning Board, Conservation Commission or Historical Commission, any road shall, upon vote of a majority of voters present and voting at any annual or special Town Meeting, become a Scenic Road subject to the provisions hereof.

### **Section 5: Procedures for Actions Affecting Scenic Roads, Stone Walls or Trees**



1. Actions requiring prior written approval: Any repair, maintenance, reconstruction or paving work to be done within the Scenic Road Boundary that will involve or include:
  - a. Cutting or removing trees
  - b. Tearing down or destruction of stone walls including burial or relocation or portions thereof
  - c. Any temporary disturbance of a stone wall shall require prior written approval of the Planning Board after a public hearing.
  
2. Actions which do not require prior written approval:  
 Emergency Work: In the event that emergency conditions require that work otherwise requiring Planning Board approval must proceed before such approval can be obtained, the work may proceed to the extent which is deemed necessary to protect public health and safety. The work shall be reported, in writing, to the Planning Board within seventy-two hours of the emergency condition.
  
3. Determination of Scenic Road Boundary: When a dispute as to the boundary of a Scenic Road arises, it will be presumed that the tree or stone wall in question is within the boundary until an applicant hereunder to the satisfaction of the Planning Board proves the contrary.
  
4. Filing: Any person, organization, or municipal agency, utility or any other party that desires to undertake any action that requires prior written approval pursuant to Section 5.1 hereof, shall file an application with the Planning Board.
  
5. Public Hearing: The Planning Board shall schedule a public hearing as soon as is feasible after the Planning Board receives an application. The Planning Board shall give notice of its public hearing by advertising twice in a newspaper of general circulation in Sandwich, as to time, date, place and purpose, the last publication to occur at least seven (7) days prior to such hearing. Such hearing shall be consolidated with any hearing required under MGL Chapter 87, Section 3 whenever so required.
  
6. Considerations for the Planning Board Decision: In making a decision with respect to any written request made hereunder, the Planning Board shall consider the following:
  - a. Preservation of natural resources;
  - b. Environmental issues;
  - c. Historical values;
  - d. Scenic and aesthetic characteristics;
  - e. Expense of reconstruction or relocation;
  - f. Public safety;
  - g. Existence or absence of reasonable alternatives, including a no-build alternative;
  - h. Consistency with articulated town policies;
  - i. Congruence with the Sandwich Comprehensive Plan;
  - j. Other sound planning considerations.
  
7. Decision of the Planning Board: The Planning Board shall make a determination with respect to a written request within twenty-one days after the close of the public hearing. Failure of the Planning Board to make its decision and file it with the Town Clerk within the time allotted shall constitute approval of the written request.
  
8. Fines: Any violation of this bylaw shall be punished by a fine of not more than \$300 in accordance with G.L. Chapter 40, Section 21D and Town Bylaw Section 2.80. The enforcing authority shall be the Board of Selectmen or the Sandwich Police Department.  
 The specific fine schedule is as follows:
  - a. First offense                      \$150 per tree removed; \$100 per tree cut.
  - b. Second offense                    \$225 per tree removed; \$175 per tree cut.
  - c. Third offense                      \$300 per tree removed; \$250 per tree cut.

9. Additional Rules and Regulations: The Planning Board may adopt more detailed regulations for carrying out its duties under this Bylaw.

**Section 6: List of Roads**

The following roads upon recommendation of town meeting have been designated as Scenic Roads pursuant to Massachusetts General Laws, Chapter 40, Section 15C:

Atkins Road (from 6A to southerly intersection of Crestview)  
Beale Avenue  
Boardley Road  
Charles Street  
Canary Street  
Chase Road  
Cranberry Trail  
Cross Street  
Dewey Avenue  
Discovery Hill Road  
Factory Street  
Farmersville Road  
Freeman Street  
Gilman Road  
Great Hill Road  
Grove Street  
Gully Lane  
Harbor Street  
Harlow Road  
Howland Lane  
Jarves Street  
John Ewer Road  
Jones Lane  
Liberty Street  
Newtown Road  
Nye Road (Street)  
Main Street (east from Town Hall to Route 6A)  
Old County Road  
Pheasant Lane  
Pimlico Pond Road  
Pinkham Road  
Pine Street  
Pleasant Street  
Ploughed Neck Road  
Quaker Road  
River Street  
Route 130 (Quaker Meetinghouse Road to Mashpee Line)  
Sandy Neck Road  
School Street  
Shawme Road  
Snake Pond Road  
Spring Hill Road  
State Street  
Stowe Road  
Summer Street  
Tupper Road  
Water Street  
Willow Street

Adopted August 6, 1973 (Article 16)  
Amended May 6, 1974 (Article 47)  
Amended May 5, 2003 (Article 36)

## **Section 5.20: Temporary Repairs to Private Ways**

### **A. Purpose and applicability.**

1. Pursuant to Massachusetts General Laws Chapter 40, Section 6N, the Board of Selectmen is hereby authorized to make temporary repairs to private ways which have been open to the public for a period of at least five (5) years, out of funds appropriated for said purpose by Town Meeting. In all cases, the entire cost shall be assessed as betterment on those properties which benefit from the repairs. Repair does not mean new construction.
2. The repairs shall be those required by public necessity, including but not limited to:
  - a. The necessity of providing adequately drained ways so as to reduce ecologically harmful runoff into the Town's brooks and ponds; and
  - b. The necessity of providing adequate passable ways for public safety vehicles from public ways to residences, Town facilities and resources including access to Town conservation land.
  - c. The Board of Selectmen shall make the determination of public necessity.

### **B. Types of Repairs.**

1. The repairs must be temporary in nature, such as filling, grading, patching and surface coating, and may include such repairs to drainage swales, conduits and structures as are necessary to preserve the integrity of surface repairs to the roadway, and shall not be such as to constitute a reconstruction of the roadway.
2. The temporary repair shall have a minimum expected life equal to twenty (20) years.
3. Temporary repairs may be undertaken on a way subject to this bylaw, or to a continuous portion of such way, which portion begins and ends at an intersection or conjunction with another way.

### **C. Petition.**

A minimum of two-thirds (2/3<sup>rd</sup>s) of the owners of property abutting the portion of the way proposed to be repaired must petition for the repair, with each lot ownership entity counting as one. The Board of Selectmen is authorized to waive this requirement.

### **D. Betterment charges.**

1. The owners of land abutting such way who derive benefit from said repairs shall be assessed betterment charges by the Board of Selectmen. Betterment charges, in an amount of 100% of the aggregate cost to plan, prepare and repair the private way shall be assessed on a per lot basis or on the proportion of the lot frontage on the way or portion of the way to be repaired to the frontage of said repaired way or other proportional method as may be required by the Board of Selectmen.
2. The Town may be considered an abutter if property under the care, custody and control of the Town abuts said way to be repaired.

E. Status of way.

1. This bylaw does not confer any obligation or duty on the Town or its agents to either initially place or to thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or want of repair.
2. The making of such temporary repairs to private ways, no matter how often or to what extent, does not constitute an acceptance by the Town of such private ways as public ways, nor does it constitute a way being "maintained and used as a public way" under the Massachusetts Subdivision Control Law.
3. Any private way repaired under the provisions of this bylaw need not be brought up to full Town standards and may continue to remain a private way. Repaired private ways may be brought to Town Meeting for acceptance as a public way by completing the steps outlined in the Town's Street Acceptance procedure, if any, adopted by the Board of Selectmen, which may be amended from time to time or otherwise as allowed by law.

F. Liability.

The Town, in making repairs under this section shall not be liable for any damages to persons or property caused by negligent repair or maintenance of the private way.

G. Indemnity Agreement.

1. No repair of a private way shall be undertaken until the Board of Selectmen has in its possession agreements executed by at least two-thirds ( $2/3^{\text{rds}}$ ) of abutting owners on the portion of the way to be repaired holding the Town harmless from any additional damage arising from any negligent repair, and which includes the following provisions:
2. that the Town assumes no liability to such owners by making the repairs;
3. jointly and severally, to indemnify and hold harmless the Town with respect to such statutory liability and any and all other liability for claims of injury, death or property damage to such owners or third parties caused by alleged defects in the way, including attorneys' fees and other costs of defense;
4. that should the Town decide not to continue to provide temporary repairs to such way, the owners will themselves keep such way in good repair so as to minimize the liability of the Town for having undertaken such repairs;
5. that such repair shall not constitute "maintenance" of such way, so as to give the way the status of a way "maintained and used as a public way" under the Massachusetts Subdivision Control Law; and
6. that if assessed for repairs, the owners will not appeal the amount of the assessment and agree that the assessment may be apportioned over the number of years of the expected lifetime of the repair to be determined by the Board of Selectmen.

H. Continually Open to Public Use.

The indemnity agreement required in Section G shall provide that any private way for which repairs and maintenance are performed pursuant to this bylaw shall remain open to public use for a period of at least twenty years.

Adopted May 1, 2017 (Article 27)

## CHAPTER 6 PERMITS & LICENSES

### Section 6.00: Temporary Transient Business: Door-to-Door Canvassing and Solicitation.

#### Part 1 Title

This chapter shall be known as the "Door-to-Door Solicitation Law of the Town of Sandwich."

#### Part 2 Purpose

This article, adopted pursuant to Chapter 43, Section 13, of the General Laws and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operational requirements for persons intending to engage in door-to-door canvassing or solicitation in the Town of Sandwich in order to protect its citizens from disruption of the peaceful enjoyment of their residences and from the perpetration of fraud or other crimes; and, to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

#### Part 3 Definitions

For the purpose of this Bylaw, the following definitions shall apply:

3.1 "Soliciting" shall mean and include any one or more of the following door-to-door activities:

- a) selling, or seeking to obtain orders for the purchase of goods or services, including advertising in any type of publication, for any kind of consideration whatsoever;
- b) selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind;
- c) selling, or seeking to sell subscriptions to books, magazines, periodicals, newspapers or any other type of publication;
- d) seeking to obtain gifts or contributions of money, or any valuable thing for the support or benefit of any association, organization, corporation or project wholly or in part for commercial purposes or by a professional solicitor or commercial co-venturer for a charitable or other non-commercial organization; and
- e) seeking to obtain information on the background, occupation, economic status, political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly, or in part, for commercial purposes.

3.2 "Canvassing" shall mean and include any one or more of the following door-to-door activities:

- a) person-to-person distribution of literature, periodicals, or other printed materials for commercial purposes, but shall not include placing or dropping off printed materials on the premises;
- b) seeking to enlist membership in any organization for commercial purposes; and
- c) seeking to present, in person, organizational information for commercial purposes.

3.3 "Residence" shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

3.4 "Registered solicitor" shall mean any person who has obtained a valid certificate of registration from the Town as required by this Bylaw.

3.5 "Charitable Organization," "Professional Solicitor" and "Commercial Co-venturer" shall be defined as set forth in Chapter 68, Section 18, of the General Laws.

#### Part 4 Registration

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of Sandwich must apply for a permit with the Chief of Police by filing a registration application form with the Chief of Police. Applications for individual registration shall be filed at least ten business days in advance. Applications for organizational registration shall be filed at least ten business days in advance.

4.1 Organization application forms shall include the following information:

- a) The name and address of the organization applying for registration, and the names and addresses of the organizations' principal officers. If the organization is a charitable organization, a certification that the most recent Annual Registration Statement required to be filed with the Attorney General's Division of Public Charities has been so filed.
- b) If the organization is a Professional Solicitor or a Commercial Co-venturer for a charitable organization, a copy of the contract with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon;
- c) The name, title and phone number, IRS or Social Security (optional) number and valid driver's license or other government-issued photo identification of the persons filing the application form;
- d) The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Sandwich;
- e) A list of the names, addresses, dates of birth of all individuals who will be employed in solicitation or canvassing by the applicant;
- f) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 60-day period);
- g) Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation, complete with the date issued and date expired; and
- h) Insurance information and license, if applicable.

4.2 Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under Part 6, 4.1 hereof. Individual registration forms shall contain the following information:

- a) Name and address of the present place of residence and length of residence at that address; if less than three years residence at present address, the address of residence(s) during the past three years;
- b) Date of birth;

- c) Name, address and telephone number of the person or organizations whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization. If the individual is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract, if any, with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon;
- d) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 60-day period);
- e) Name of the last three communities (if any) in which the applicant has solicited or canvassed door-to-door, complete with the date of issue and expiration date;
- f) Valid driver's license or other government issued photo identification; and
- g) Make, model and registration number of any vehicle to be used by the applicant while soliciting or canvassing.

#### Part 5 Registration Fee

There shall be an application fee of \$50.00 for an individual registration card. Each organizational applicant for registration or re-registration shall pay to the Town an application fee of \$75.00.

#### Part 6 Registration Cards

6.1 The Chief of Police, after a review, but in no event more than ten (10) business days after receipt of a fully-completed application, shall furnish each person with a registration card which shall contain the following information:

- a) The name of the person;
- b) A recent photograph of the person;
- c) The name of the organization (if any) which the person represents;
- d) A statement that the individual has been registered with the Town of Sandwich Police Department but that registration is not an endorsement of any individual or organization; and
- e) Specific dates or period of time covered by the registration.

6.2 Persons engaged in solicitation or canvassing as defined in this Bylaw must display their Town issued registration card on the outermost portion of their clothing at all times while soliciting or canvassing and show such card to any person solicited or upon the request of any police officer.

6.3 Registration cards are valid only for the specific dates or time period specified thereon and in no case for longer than 60 days.

6.4 The Police Chief shall routinely grant registrations without further inquiry but shall refuse registration to an organization or an individual whose registration has been revoked for violation of this Bylaw within the previous two-year period or who has been convicted of murder/manslaughter, rape, robbery, arson, burglary/breaking and entering, felony assault, or larceny over \$250, as such persons pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief shall also refuse to register a person who is a sex offender required to register with the Sex Offenders Registry Board and who is finally classified as Level 2 or Level 3 Sex Offender, as such persons have been found to have a

moderate to high risk of re-offense and pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of sex crimes.

#### Part 7 Exceptions

7.1 Registration shall not be required for officers or employees of the Town, County, State or Federal governments when on official business.

7.2 Individual registration shall not be required for minors under the age of 18, except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.

7.3 Nothing in this Bylaw shall be construed to impose any registration requirement or otherwise restrict or in any way regulate any activity for religious, political, newspaper distribution or public policy purposes or other non-commercial purposes, regardless of whether such activity includes acts that would otherwise constitute soliciting or canvassing.

#### Part 8 Duties of Persons Going Door-to-Door

8.1 Upon going into any residential premises in the Town of Sandwich, every solicitor, canvasser or other person must first examine any notice that may be posted prohibiting solicitation or other activities. If such a notice is posted, the solicitor, canvasser or other person shall immediately and peacefully depart from the premises.

8.2 Any solicitor, canvasser or other person who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

8.3 Immediately upon gaining entrance to any residence, each Solicitor or Canvasser as defined in this Bylaw must do the following:

- a) Present his registration card for inspection by the occupant;
- b) Request that the occupant read the registration card; and
- c) Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of that organization.

#### Part 9 Restrictions on Methods of Solicitation, Canvassing, or Other Door-to-Door Activities

9.1 Shall be unlawful for a solicitor, canvasser or other person to do any of the following:

- a) Falsely represent, directly or by implication, that the solicitation, canvassing or other activity is being done on behalf of a governmental organization, or on behalf of any municipal employee or elected official;
- b) Solicit, canvass or conduct any other activity at any residence where there is a posted sign prohibiting the same, without express prior permission of an occupant;
- c) Solicit, canvass or conduct any other activity at any residence without express prior permission of an occupant, before 9:00 a.m. or after 9:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation or such other activities;
- d) Utilize any form of endorsement from any department head currently employed or serving the Town of Sandwich; and



- e) Solicit, canvass or conduct any other activity at any residence in a threatening, abusive or illegal fashion.

#### Part 10 Penalty

10.1 Any person or organization who shall violate any of the provisions of this Bylaw or any applicable state or federal laws governing soliciting or canvassing, including, but not limited to Chapter 68 of the General Laws, shall be subject to a fine not to exceed \$300.00 for each offense.

10.2 Any person or organization who for himself, herself, itself, or through its agents, servants or employees is found after investigation by a police officer to have:

- a) violated any provision of this Bylaw, or any applicable state or federal laws governing soliciting or canvassing, including but not limited to Chapter 68 of the General Laws; or
- b) knowingly provided false information on the registration application shall have his, her or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

#### Part 11 Appeals

Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Board of Selectmen. Such appeal must be filed within 5 days after receipt of the notice of denial or revocation. The Board of Selectmen shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Board of Selectmen fails to make a determination within 30 days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

#### Part 12 Severability

Invalidity of any individual provision of this Bylaw shall not affect the validity of the Bylaw as a whole.

Adopted May 3, 1977 (Article 17)  
Amended May 2, 1988 (Article 26)  
Amended May 7, 2001 (Article 28)  
Amended May 7, 2012 (Article 19)

#### **Section 6.05 Temporary Transient Business: Vendors**

Any person or organization engaged in any temporary or transient business for the purpose of selling, bartering, carrying, or exposing goods, merchandise or wares must first obtain a permit from the Board of Selectmen.

A permit shall not be required for any person who sells only fresh seafood, fruit or vegetables obtained by his or her own labor or the labor of his family and sold at his or her residence.

Whoever violates this section shall be subject to a fine of twenty (\$20.) dollars for each offense.

Adopted March 1, 1948 (Article 27)  
Amended May 6, 1991 (Article 41)

## **Section 6.10 Secondhand Dealers and Secondhand Collectors**

### **1. Definitions**

ACCEPTABLE IDENTIFICATION means either:

- A. A current driver's license that includes the date of birth, photograph, and physical description of the person offering the identification; or
- B. Two other pieces of current identification, at least one of which is issued by a governmental agency or subdivision and includes the date of birth, photograph and physical description of the person offering the identification.

POLICE CHIEF means the Chief of Police of the Town of Sandwich or her or his designee.

REGULATED PROPERTY means the following used property:

- A. Precious metals, including but not limited to, any metal valued for its character, rarity, beauty or quality, including gold, silver, copper, platinum or other metals, whether as a separate item or in combination with other items.
- B. Precious gems, including but not limited to, any gem valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or other precious or semi-precious gems or stones, whether as a separate item or in combination with other items or as a piece of jewelry.
- C. Watches and jewelry containing precious metals or precious gems, including but not limited to, rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wrist watches, or stop watches.
- D. Sterling silver flatware, including but not limited to, knives, forks, spoons, candlesticks, coffee and tea sets, or ornamental objects.
- E. Any electronic audio, video or photographic and optical equipment along with computer or computer equipment or recordings in any form.
- F. Any power tools or equipment.
- G. Musical instruments.
- H. Sporting equipment.
- I. Automobiles, boats, planes, motorcycles in whole or taken in parts, or any other type machinery.
- J. Collectibles; coins and currency.

SECONDHAND COLLECTOR shall have the same meaning as the term "junk collector" M.G.L. c.140, §56.

SECONDHAND DEALER shall have the same meaning as the term "junk collector" in M.G.L. c.140, sec. 54 but excluding private collectors for non-commercial purposes.

LICENSING AUTHORITY means the Town of Sandwich Board of Selectmen or its designee.

## **2. Issuance, Renewal and Revocation of Licenses Required.**

A. Secondhand collectors and secondhand dealers must obtain a license to conduct said activities within the Town of Sandwich. The Licensing Authority shall indicate on any such license the term that such license is valid, not to exceed one calendar year. The Licensing Authority may issue a limited license for a period of one or more days and shall state the starting and expiration dates on such license, and any limited license shall be subject to the requirements of this bylaw. The Licensing Authority may establish a fee for any license issued pursuant to this bylaw. Any annual license issued under this section shall expire on December 31.

B. The Licensing Authority of the Town of Sandwich shall, upon receipt of an application for a secondhand collectors or secondhand dealers license, conduct a public hearing as to whether to issue such license. After due notice and a hearing, the Licensing Authority may deny an original or renewal application for a Secondhand Dealer or Secondhand Collector License or revoke an issued license if it has probable cause to believe any of the following conditions exist after a public hearing:

1) The applicant, or any person who in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business, has owned or operated a secondhand dealer or secondhand collector business regulated under this regulation or any substantially similar license and, within the five years prior to the application date:

(a) Has had a secondhand dealer or secondhand collector license revoked for a reason that would be grounds for a denial or revocation pursuant this chapter; or

(b) The secondhand dealer or secondhand collector business has been found by a Massachusetts court or the Licensing Authority to constitute a public nuisance.

(2) The licensee applicant, or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business, has been convicted of a felony or any crime involving a false statement within 15 years prior to the application date. The license applicant shall consent to the Police Chief or his designee conducting a CORI check as a condition of eligibility for such license.

(3) The applicant has:

(a) Knowingly made a false statement in the application;

(b) Knowingly omitted information requested to be disclosed in the application; or

(c) Completed the application with reckless disregard for the truth or accuracy of the statements made therein.

(4) A lawful inspection of the secondhand dealer or secondhand collector business premises by the Police Chief or his designee has been unjustifiably refused by a person who, in part or whole, manages or operates the business.

(5) The secondhand dealer or secondhand collector business, the applicant or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business has more than five violations of these regulations, any state or federal law, or any combination thereof within a two-year period, including the two years prior to the application date.

(6) The secondhand dealer or secondhand collector business, the applicant or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business has been convicted of any crime under the laws of the Commonwealth of Massachusetts that is inconsistent with the type of secondhand business to be conducted, such

as, but not limited to, receiving stolen property, any form of breaking and entering, larceny from a person or any other form of larceny, or any form of aggravated assault, as verified by a CORI check by the Police Chief or his designee.

(7) Such other grounds as the Authority determines to be in the public interest or in violation of the conditions of the license or any law or regulation of the Commonwealth or the Town of Sandwich.

### **3. Inspection of Property and Records.**

A. Whenever necessary to make an inspection to enforce the provisions of this ordinance, or when the Police Chief or his designee has reasonable grounds to believe that a specific item or regulated property held by a Secondhand Dealer or Secondhand Collector is associated with criminal conduct, the Police Chief or his designee may enter the premises of the Secondhand Dealer or Secondhand Collector at any reasonable time, provided that the premises are occupied at the time of entry and the Police Chief or his designee presents proper official identification at or near the time of entry. If entry is refused, the police Chief or his designee shall have recourse to every remedy provided by law to secure entry, including an administrative search warrant or a criminal search warrant.

B. Authority to inspect Secondhand Dealer or Secondhand Collector premises under this bylaw is in addition to and not in limitation of the authority the Town or the Police Chief or any police officer would otherwise have to enter the business premises.

C. Once allowed to enter the premises of the Secondhand Dealer or Secondhand Collector, the Police Chief or his designee may inspect property kept there. The Police Chief or his designee may also inspect the business records associated with regulated property and perform any duty imposed upon the Town or the Police Chief by this bylaw.

### **4. Record Keeping**

A. The Police Chief or his designee shall design a purchase report form and make copies available to all Secondhand Dealer or Secondhand collectors. Secondhand Dealers or Secondhand Collectors shall utilize these forms, or any other substantially similar form approved by the Police Chief, to record all purchases of regulated property. The form may request any information reasonably calculated to help the Police Chief identify the purchaser, the seller or the property associated with the purchase of regulated property.

B. Whenever a Secondhand Dealer or Secondhand Collector purchases regulated property for business purposes, the Secondhand Dealer or Secondhand Collector shall obtain acceptable identification from the seller along with the seller's current residence address. The Secondhand Dealer or Secondhand Collector shall fill out a purchase report form in all relevant aspects at the time of the purchase. A purchase report form as required to be filled out by this section shall be filled out in legible English. The seller shall sign his or her name on the filled-out form.

C. A digital photograph will be taken of each item purchased as defined under regulated property Section 1(E). The photograph may be stored electronically, but are subject to the same recordkeeping requirements as listed in Section 4A. Copies of the photographs will be made available to the Chief of Police in a timely manner, and are subject to the same rights of inspection as listed in Section 3.

D. The licensee shall cause to be delivered to the Sandwich Police Department on a weekly basis, a copy of all forms and photographs regarding transactions recorded in the ledger on the form provided. If, during the preceding week such Secondhand Dealer or Secondhand Collector has taken no articles, in, he/she shall make out and deliver to the Police Department a report of such fact. For any licensed business that intends to conduct business for one week or less, all such documents shall be delivered to the Police Department on or before the last day of conducting business.

## **5. Posting of Licenses and Notices**

A. All licenses shall be conspicuously posted in an accessible place on the licensed premises, available at all times to the proper authorities.

B. A secondhand dealer shall post the following notice no smaller than eight and one-half inches by 11 inches with lettering no smaller than one-fourth of an inch in height outside each point of entry intended for patron use and at or near each place where a secondhand dealer purchases used property in the in the regular course of business.

### **NOTICE:**

"The sale or attempted sale of property to a secondhand dealer without consent of the property's owner is punishable by a civil penalty not to exceed \$300 per item.

Don't sell property without consent of the property's owner. You will be held strictly liable for violation of this law."

If a significant number of the patrons of the regular secondhand dealer use a language other than English as a primary language, the notice shall be worded in both English and the primary language or languages of the patrons.

## **6. Purchases by a Secondhand Dealer or Secondhand Collector**

A. A Secondhand Dealer or Secondhand Collector shall not make any cash purchase in an amount that exceed \$50.00 (fifty dollars and zero cents.)

B. A Secondhand Dealer must not carry on the business of buying or selling secondhand property except at the premises designated in the dealership license.

C. A Secondhand Dealer must not purchase any property whose serial number or other identifiable marking has been wholly or partially tampered with or removed.

D. A Secondhand Dealer or Secondhand Collector may not purchase any item from any person under the age of 18 (eighteen).

## **7. Unauthorized Sale of Property.**

A. No Secondhand Dealer or Secondhand Collector may purchase or sell any property of any type without the consent of the owner.

B. No sale will be made to anyone under the age of 18.

## **8. Holding Periods.**

A. A copy of every purchase report form filled out as required by this ordinance shall be kept on the premises of the Secondhand Dealer or Secondhand Collector business during normal business hours for at least three (3) years from the date of purchase. The report form shall be subject to inspection by the Police Chief or his designee.

B. All regulated property in the categories of precious metals or precious gems, defined in Section 1, purchased by a Secondhand Dealer or Secondhand Collector and required to be recorded on a purchase report form shall be held by said Secondhand Dealer or Secondhand collector for at least 21 days from the date of purchase.

C. All other regulated property purchased by a Secondhand Dealer or Secondhand Collector and required to be recorded on a purchase report form shall be held by said Secondhand Dealer or Secondhand Collector for at least 15 days from the date of purchase.

D The Secondhand Dealer or Secondhand Collector shall maintain the property in substantially the same form as when purchased and shall not alter exchange or commingle the property before the expiration of the applicable holding periods set forth in Sections 8(B) and (C). During the holding period the regulated property shall be kept on the business premises during normal business hours and shall be subject to inspection by the Police Chief, or his designee.

E The Police Chief or his designee may give written notice to a Secondhand Dealer or Secondhand Collector holding regulated property that the Police Chief or his designee has reasonable grounds to believe more likely than not a specific item of regulated property is associated with criminal conduct. The Secondhand Dealer or Secondhand Collector holding the regulated property shall then continue to hold the property specified in the notice in the same manner and space as required under subsection (B) of this section until released by the Police Chief.

F. The holding period for any item of regulated property shall not exceed 180 days from the date of purchase.

G. A Secondhand Dealer or Secondhand Collector may from time to time request in writing that the Police Chief shorten the length of the holding period. If the Police Chief or his designee determines relief from the holding period is appropriate due to unreasonable hardship, the Police Chief or his designee shall provide the Secondhand Dealer or Secondhand Collector who requested relief with written authorization to sell, transfer or otherwise dispose of the regulated property. The request shall identify the property and state the basis or bases of the unreasonable hardship or hardships. The authorization shall be effective only upon delivery of the written authorization to the Secondhand Dealer.

H. Secondhand Dealers, retailing or wholesaling used property limited to the following, are exempt from section B above:

- (1) Used clothing, furniture, costume jewelry, knickknacks, footwear, and house ware items, such as dishes, pots, pans, cooking utensils, and cutlery; or
- (2) Used clothing, furniture, costume jewelry, footwear and house ware items such as dishes, pots, pans, cooking utensils and cutlery, obtained only from or through a "registered charity" or by donations; or
- (3) Used books, papers, or magazines.

## **9. Testing of weighing and measuring devices.**

MI weighing or measuring devices used by a licensee in the conduct of the licensed business shall be tested and sealed by the Town of Sandwich Sealer Weights and Measures Division, or its designee, prior to being placed in service.

## **10. Violations and Penalties.**

A. Violation of any provision of this bylaw may be prosecuted as a criminal matter, as an administrative procedure or by the method provided in §21D of Chapter 40 of the General Laws. Each violation shall be considered separately.

B. Whoever violates the provisions of this bylaw shall be subject to a fine of not more than \$300. As an alternative to criminal prosecution, any violation of this bylaw enforced by the methods provided in §21D of Chapter 40 of the General Laws shall be subject to a fine of \$250.

C. As an alternative to or concurrent with any enforcement pursuant to Section 10(B), the Licensing Authority may, after due notice to the licensee and a hearing, suspend, revoke or modify any license issued by them whenever they have reasonable cause to believe the licensee has violated the terms, conditions or regulations pertaining to such license.

**11. Severability.**

Each provision of this chapter shall be construed as separate. If any part of this chapter shall be held invalid for any reason, the remainder shall continue in full force and effect.

Adopted March 1, 1948 (Article 27)

Adopted May 2, 2011 (Article 26)

**Section 6.20 Exhibitions**

The Selectmen may grant, upon such terms and conditions as they deem reasonable, a license for theatrical exhibitions, public shows, public amusements, exhibitions of every description to be held on weekdays or Sundays, to which admission is obtained upon payment of money or upon the delivery of any valuable thing or by a ticket or voucher obtained for money or valuable thing, or in which, after free admission, funds or contributions are solicited or collections made.

Adopted June 22, 1970 (Article 7)

**Section 6.25 Excavations**

Part 1 No person shall remove any soil, loam, sand or gravel from any land in the Town not in public use, unless such removal is authorized by a permit issued by the Board of Selectmen, except in conjunction with construction of a building on the same parcel and except for the continued operation on the parcel of an existing sand and gravel pit, or in conjunction with the continued operation of a cranberry bog. No such permit shall be issued until after an application therefor is filed with the same Board. Said Board shall hold a public hearing on the application and notice of the filing of such application and the date and time of the public hearing thereon shall be advertised in a paper published in the County at least seven (7) days before the public hearing.

Part 2 Whoever violates any provision of the foregoing section shall be punished by a fine not exceeding twenty (\$20.00) dollars for each offense.

Adopted March 5, 1951 (Article 26)

**Section 6.30 Buildings**

Part 1 No new buildings shall be constructed and no alterations of any existing building which increases the floor space thereof shall be made in Sandwich unless the applicant therefor first obtains from the Board of Selectmen or its authorized representative a permit therefor, for each of which permits the applicant shall pay in accordance with fee schedules as may be adopted from time to time by the Board of Selectmen.

Part 2 Violation of this ByLaw shall be punishable by a fine not exceeding one hundred (\$100.00) dollars for each offense.

Adopted March 5, 1956 (Article 35)

Amended March 5, 1962 (Article 10)

Amended May 5, 1980 (Article 36)

### **Section 6.35 Wiring**

Whosoever desires to install or alter electrical wires shall first make application to the Inspector of Wires and obtain a permit thereof. The Inspector of Wires shall grant a permit authorizing such installation or alteration provided such proposed installation or alteration shall comply with the Laws of the Commonwealth. The applicant shall pay in accordance with fee schedules as may be adopted from time to time by the Board of Selectmen.

Adopted May 5, 1981 (Article 57)

### **Section 6.40 Gas**

Whosoever desires to install or alter gas appliances shall first make application to the Gas Inspector and obtain a permit therefor. Such application shall be made in the name of the owner or occupant of the building or structure by the person or persons who propose to make the installation of such equipment.

The Gas Inspector shall grant a permit authorizing such installation or alteration provided such proposed installation or alteration complies with the Laws of the Commonwealth and the rules and regulations adopted by the Board established under said Section 12H of Chapter 25. The applicant shall pay in accordance with fee schedules as may be adopted from time to time by the Board of Selectmen.

Adopted May 5, 1981 (Article 56)

### **Section 6.45 Food Vendors Licenses**

- Part 1 No person shall offer food for sale to the public in a food service establishment, as hereinafter defined, without first obtaining a food vendor's license under the provisions of this ByLaw. Any person who violates this section shall be liable to a fine of fifty (\$50.00) dollars per violation. Each day of operation without a food vendor's license shall constitute a separate violation.
- Part 2 Food service establishment shall include any fixed or mobile place, structure or vehicle, whether permanent, transient, or temporary, private, public or nonprofit, routinely serving the public; or any other eating and drinking establishment or place in which food or drink is prepared for sale or for service to the public on the premises or elsewhere with the exception of occasional food sales sponsored by legitimate local, school, civic, municipal, fraternal, or church organizations.
- Part 3 Each applicant for such license shall submit, on forms to be provided by the Selectmen, the following information: Name and address of applicant; name and address of place of business; evidence, in form satisfactory to the Selectmen, that the applicant has upon the premises the necessary implements and facilities for cooking, preparing and furnishing food to the public; and such other information as the Selectmen shall require.

The Selectmen may require applicants to submit detailed plans and specifications, if any, showing the location of fixtures and other facilities and the general arrangement of the premises including, in the case of applications for premises not yet completed, estimates of the cost of the proposed arrangement and of the facilities indicated on the plan.



The Selectmen may require detailed plans for ongoing upkeep and maintenance consistent with standards necessary for sanitation and safety. Such plans shall include a listing of facilities for cleaning of all utensils, refrigerator, and food storage areas.

In the event of a proposed sale of business requiring a food vendor's license or a common victualer's license, an application for a transfer of either of said licenses will be deemed to be an application for a new license, subject to the rules and regulations herein contained, and the owner of such business shall be required to file with the Selectmen a thirty-day (30) notice of his intention to sell same before such application will be acted upon by the Selectmen.

- Part 4 Such license shall not be issued or be valid until it has been signed by a majority of the Selectmen. The Selectmen may refuse to grant such a license if, in their opinion, the public good does not require it.
- Part 5 Food vendors' licenses shall be valid for a term of one year from the first day of January until the 31<sup>st</sup> day of December. A non-refundable fee of twenty-five (\$25.00) dollars shall be submitted with the application for such license. Any license issued during the year shall expire on the 31<sup>st</sup> day of December and the fee shall not be prorated.
- Part 6 If in the opinion of the Selectmen, a licensee ceases to be engaged in the activity licensed hereunder, or fails to maintain upon the premises on which such activity is licensed the implements and facilities required by this ByLaw, the Selectmen shall immediately revoke the license.
- Part 7 If the licensee at any time conducts the licensed business in a manner inconsistent with this ByLaw, the Selectmen, after notice to the licensee and public hearing may, upon satisfactory proof thereof, suspend or revoke the license.
- Part 8 The Selectmen may from time to time make rules and regulations interpreting, clarifying and imposing standards consistent with this ByLaw for conduct of licensed businesses as required by Part 7 thereof.

Adopted May 5, 1981 (Article 63)

#### **Section 6.50 Yard Sales**

- Part 1 No person shall conduct a yard sale, garage sale or any other type of sale where goods are commonly displayed outside the building without a permit from the Board of Selectmen.
- Part 2 No person or location shall be authorized more than three (3) sales per year.
- Part 3 Whomsoever violates this ByLaw shall be subjected to a fine not to exceed one hundred (\$100.00) dollars for each offense.
- Part 4 Charitable or municipal organizations, as defined in the Internal Revenue Code, shall be exempt from the provisions of this ByLaw.

Adopted May 6, 1985 (Article 66)

#### **Section 6.55 Foot and Bicycle Races**

- Part 1 Competitive foot races and bicycle races may be held on public ways, provided that such races are sponsored by, or in cooperation with, organized civic, athletic, recreational or charitable organizations, and provided further that the sponsoring organization shall first have obtained a permit issued by the Selectmen. Said permit may include regulations regarding

the conduct of the participants and the sponsoring agency, including but not limited to, routes to be followed, travel lanes to be occupied by runners, locations of check points and refreshment stops, and the requirements for the sponsoring organization to provide at the group's expense adequate police traffic control officers and fire department EMT's as may be required by the Police Chief and Fire Chief.

Part 2 Violation of any provision of the ByLaw shall be punishable by a fine of not more than one hundred (\$100.00) dollars.

Adopted May 6, 1985 (Article 71)

## **Section 6.60 Signs**

### Part 1 Purpose and Adoption

This ByLaw shall be known as the Sandwich Sign Code and is adopted under Section 29, Chapter 93, Massachusetts General laws.

The purpose of this ByLaw is to provide for the reasonable regulation and control of the erection and maintenance of signs and advertising devices within the Town to the end that the appearance and amenities of the Town may be preserved and enhanced, without unduly restricting the conduct of lawful enterprise. For this purpose, the following terms shall have the meanings hereinafter ascribed to them.

### Part 2 Definitions

**Sign** shall mean any device designed to inform or attract attention of persons not on the premises on which the device is located. The following, however, shall not be considered signs within the context of this ByLaw:

- a) flags and insignia of any government except when displayed in connected with commercial promotion;
- b) legal notices or informational signs erected or required by government bodies;
- c) temporary signs erected for a charitable or religious cause;
- d) temporary signs inside display windows, covering not more than twenty (20) per cent of window area, illuminated by building illumination only;
- e) standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline;
- f) signs guiding and directing traffic, not exceeding one (1) square foot.

**Sign Area** shall mean the surface area within a single continuous perimeter enclosing all the display area of the sign, including borders, decorative structural members and without deduction for open space or other irregularities, but not including structural members not bearing advertising matter unless internally or decoratively lighted. One side only of a flat, back-to-back sign shall be counted.

### Part 3 Administration

- a) This ByLaw shall be administered by the Office of the Sign Inspector. No sign shall be erected without a permit issued by the Sign Inspector, for which a five (\$5.00) dollar fee shall be charged, and which shall not be issued for any sign except in conformance with this ByLaw.
- b) When the provisions of this code or of the drawing and specifications approved thereunder are not complied with, a Stop Work or Removal Order shall be served on the owner or his representative by the Sign Inspector, and a copy thereof shall be posted at the site of the violation. Such Stop Work or Removal Order shall not be removed except

by written notice from the Sign Inspector's Office after satisfactory evidence has been supplied that the violation has been corrected. Failure to comply with such Stop Work or Removal Order shall constitute a violation of this ByLaw.

- c) The Sign Inspector, in the name of the Town, shall take measures as required to carry this bylaw into effect.
- d) Any person violating any of the provisions of this bylaw shall be fined not more than twenty (\$20.00) dollars for each offense. Each day that such violation continues shall constitute a separate offense.
- e) Persons aggrieved by this ByLaw or by actions of the Sign Inspector relative to it and persons seeking special permits as allowed hereunder or variances from the provisions of this bylaw, may appeal or apply to the Sandwich Zoning Board of Appeals, whose procedures and decision criteria in acting on such appeals and applications shall be to the extent applicable to those prescribed for the Board of Appeals in Chapter 40A of the General Laws as amended, such procedures and decision criteria shall be promulgated by the Board and on file with the Selectmen.

**Part 4 Size and Number of Signs**

The following shall apply in all zoning districts, except where otherwise specified:

- a) A single business enterprise on a single lot may have not more than two signs, either attached to a building or free standing, with a combined area of not more than sixteen (16) square feet. However, on premises having more than one hundred (100) feet of frontage on a single street, additional sign area shall be allowed at the rate of 0.04 additional square feet of allowable sign area per additional linear foot of frontage, to a maximum sign area of twenty (20) square feet. Miscellaneous signs such as auto club, credit card, or vacancy signs must be incorporated into the principal sign within its borders and included in its area. Home occupations may have only one sign of not over two (2) square feet.
- b) Groups of two or more businesses on a single lot, such as a "plaza" or "shopping center" may as an alternative to signs as above, have one sign, identifying the plaza or center name, with maximum size of:

Up to 5 stores or 4,000 square feet floor area.....	16 square feet
6-8 stores of 4,000-10,000 square feet floor area.....	20 square feet
9+ stores or 10,0001+ square feet floor area.....	24 square feet

In addition, each individual business within the plaza or shopping center shall be allowed a wall sign having a total sign area of one-half (½) square foot for each lineal foot horizontal length of the façade of the building. The length of the sign shall not exceed three-quarters (¾) of the length of the building and shall not project more than six (6) inches from the face of the building. All such signs within a place or shopping center shall be consistent in structural design and in color.

If the building has multiple frontage, an additional sign area computed on the same basis as above shall be allowed. Additional sign area allowed by reason of multiple frontage shall be allowed only on a sign facing that frontage.

- c) A dwelling may have a single sign not over two (2) square feet in area indicating the owners or occupants or pertaining to a permitted accessory use.

- d) A farm, institutional use, or noncommercial recreational use may have a single sign not over nine (9) square feet in area.
- e) Driveway signs (entrance, no turning, no parking, etc.) are allowed for private driveways, but shall not exceed one (1) square foot in sign face area, and shall bear no advertising.
- f) One "For Sale" or "For Rent" sign only may be erected on the property to be sold or rented and shall not exceed three (3) square feet in sign face area. Such a sign shall be removed forthwith when the transaction is completed.
- g) One subdivision name sign not to exceed sixteen (16) square feet may be permitted for each designated main entry to the subdivision, as shown on a plan approved by the Planning Board.
- h) Temporary construction identification signs are allowed and may have an area of nine (9) square feet. Such signs shall be removed forthwith when the project is completed.
- i) All signs from this date forward, unless excepted herein shall be wooden and either painted or carved and painted. Specifically excluded are temporary Real Estate signs placed at property for sale, rent or lease and temporary Construction Business signs placed by tradesman at the location where work is being performed.

#### Part 5 Prohibitions

- a) Only signs pertaining to the premises on which they are located or to products, accommodations, services or activities on the premises shall be allowed. Billboards of a general advertising nature are prohibited. However, off-premise directional signs (a maximum of two (2) signs) not exceeding three (3) square feet may be allowed in any zoning district by special permit from the Sandwich Zoning Board of Appeals, upon their determination that such will serve the public convenience without detriment to the neighborhood.  
  
At road intersections where two or more different business directional signs are permitted, a multiple listing sign shall be required.
- b) When visible from a highway, no advertising shall be permitted on storage tanks or similar types of containers. This restriction applies to both permanently located and mobile units, and trailers and trucks regularly located for fixed display.
- c) Signs on trees, etc. except for signs warning of danger or prohibiting trespass or the like; no sign shall be painted on or affixed to any tree, fence, utility pole, rock or ledge, or painted or posted on any wall, without an intermediary removable substance.
- d) Temporary signs tacked, posted, painted or otherwise attached to poles, posts, trees, rocks, sidewalks, or curbs, or to motor vehicles and trailers regularly located for fixed display are prohibited.
- e) Pennants, streamers, advertising flags, spinners or similar devices are prohibited.
- f) No sign, free standing or attached, shall exceed the height of the building or twenty (20) feet in height, whichever is the lesser. At no point shall any sign extend beyond the roof line.
- g) No sign, or any part thereof, shall be within the layout of a public way. No sign shall obstruct highway vision.

- h) Moving or flashing signs. No sign or any part thereof which is designed intentionally to move or oscillate shall be permitted. A sign which is designed, for structural reasons, to align itself with the direction of the wind shall not be considered a moving sign.
- i) 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.

#### Part 6 Signs and Town Property

- a) Private signs on Town property are prohibited unless a permit for such a sign is authorized by the Board of Selectmen. No such authorization shall be given until after a duly advertised public hearing; any such signs shall conform in all respects to all other provisions of this section. Permits for such signs may be revoked at any time by the Board of Selectmen.
- b) No sign overhanging a pedestrian way may exceed twelve (12) square feet. At the time of application, proof must be shown or provided of adequate public liability insurance coverage applicable to signs suspended over Town property.

#### Part 7 Nonconforming Signs

Except as otherwise provided herein, any sign existing at the time of enactment of this ByLaw which does not conform to its provisions is a nonconforming sign. Each nonconforming sign shall conform to the provisions hereof on or before November 24, 1977; provided, however, that all prohibited signs described in Section 5 shall be removed no later than one year from the enactment of the Code. Thereafter, any nonconforming sign, which has not been authorized by the Sandwich Zoning Board of Appeals as hereinbefore provided, shall be removed. Nonconforming signs which are structurally altered, relocated, or replaced, or which are not properly maintained, shall comply immediately with all provisions of this ByLaw.

#### Part 8 Historic District Signs

All signs in the Historic District must also comply with the requirements of the Historic District Committee.

#### Part 9 Maintenance

All signs whether erected prior to the effective date of this section or not shall be maintained in a safe and neat condition to the satisfaction of the Office of the Sign Inspector. Failure to correct a violation of this provision within twenty (20) days after notice hereof shall constitute grounds for revocation of the permit, or for removal of the sign. To fulfill the requirements of the Sign Code ByLaw, the Board of Selectmen shall annually appoint a Sign Inspector to administer and enforce the Sign Code ByLaw.

#### Part 10 Severability

The invalidity of any section or provision of this ByLaw shall not invalidate any other section or provision thereof.

#### Part 11 Amendment

This ByLaw may be amended from time to time by vote at any Town Meeting, either Annual or Special.

Adopted August 6, 1973 (Article 11)  
Amended May 6, 1974 (Article 54)  
Amended May 5, 1975 (Article 39)  
Amended May 3, 1976 (Article 36)  
Amended May 4, 1977 (Article 53)  
Amended May 4, 1977 (Article 54)  
Amended May 2, 1978 (Article 33)  
Amended May 7, 1979 (Articles 15 and 16)  
Amended September 12, 1983 (Article 18)  
Amended May 7, 1984 (Article 45)  
Amended May 2, 1988 (Article 23)  
Amended April 1, 1996 (Article 8)

### **Section 6.99 Revocation**

- Part 1 Any Board, Officer, Committee or 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 which is the subject of such license or permit and which activity, event or other 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 to increase a local licensing authority's power to withhold the granting, renewal or transfer of licenses or permits in accordance with Massachusetts General Laws, Chapter 40, Section 57 in accordance with the following:
- Part 2 The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments, and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each Department, Board, Committee, or Officer, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-(12) month period, and that such party has not filed in good faith a pending application for any abatement of such tax or a pending petition before the appellate tax board.
- Part 3 The licensing authority may deny, revoke or suspend any license or permit, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or other 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, or local taxes, fees, assessments, betterments or any other municipal charges including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held no earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party.

The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this ByLaw 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 taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as of the date of issuance of said certificate.

- Part 4 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.
- Part 5 The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family as defined in Chapter 268, Section 1, Massachusetts General Laws in the business or activity conducted in or on said property.
- Part 6 This section shall not apply to the following licenses and permits: open burning (Chapter 38, Section 13, M.G.L.); bicycle permits (Chapter 85, Section 11A, M.G.L.); sales of articles for charitable purposes (Chapter 101, Section 33, M.G.L.); children work permits (Chapter 140, Section 69, M.G.L.); clubs, associations dispensing food or beverage licenses (Chapter 140, Section 21E, M.G.L.); dog licenses (Chapter 140, Section 137, M.G.L.); fishing, hunting, or trapping licenses (Chapter 207, Section 28, M.G.L.); and theatrical events, public exhibition permits (Chapter 140, Section 181, M.G.L.). All references in this ByLaw are to Massachusetts General Laws.

Adopted September 28, 1987 (Article 18)  
Amended May 1, 1995 (Article 38)

## CHAPTER 7 CONSERVATION

### Section 7.00 Wetland Protection

#### Part 1 Purpose

The purpose of this ByLaw is to protect the wetlands, related water resources, and adjoining land areas in this municipality by prior review and control of the activities deemed by the Conservation Commission likely to have significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution, fisheries, shellfish, wildlife habitat, recreation, agriculture and aquaculture values (collectively, "the wetland values protected by this bylaw").

### Section 7.10 Jurisdiction

Except as permitted by the Conservation Commission or provided in this bylaw, no person shall remove, fill, dredge, build upon, or alter land in or within one hundred (100) feet of the following resource areas: freshwater wetland, coastal wetland, vegetated wetland, unvegetated wetland, surface water body, ocean, bay, estuary, stream/creek (intermittent or continuous, natural or manmade), and land under said water, any bank, beach, dune, flat, marsh, wet meadow, bog, swamp, or any land subject to coastal action, or inundation by groundwater, surface water, tidal action, coastal storm flowage or land subject to flooding within the one-hundred (100) year and five-hundred (500) year flood zone as identified on the most recent FIRM (Flood Insurance Rate Maps) for the Town of Sandwich as established by FEMA (Federal Emergency Management Agency).

In determining whether a resource area is subject to the provisions of this bylaw, the origin of the wetland, whether natural or manmade, is not a relevant factor.

### Section 7.15 Exceptions

The application and permit required by this bylaw shall not be required for maintaining, repairing or replacing (but not substantially changing or enlarging) an existing and lawfully-located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, other communication services, or traffic control and other activities that are incidental to flood or mosquito control work performed by or under the direction of an authorized governmental agency, and provided that the work conforms to performance standards, design specifications, policy guidelines, and regulations adopted by the Commission and written notice has been given to the Commission five (5) working days prior to commencement.

The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land or water(s) in agricultural or aquacultural use, as defined in Chapter 131A of the Massachusetts General Laws. Expansion of existing uses in these areas or new uses in the areas within the jurisdiction of this bylaw will require an application and permit.

The application and permit required by this bylaw shall not apply to emergency projects necessary for the protection of wetland values or the health and safety of the public, provided that the work is to be performed by an agency of the Commonwealth or a political subdivision thereof, provided:

- (a) That written notice has been given to the Commission within twenty-four (24) hours of the commencement of any work;



- (b) That the Conservation Commission or its officer certifies in writing the work as an emergency project;
- (c) That the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency;
- (d) All emergency work shall conform to the performance standards, design standards, policy guidelines, and regulations adopted by the Commission; and
- (e) That a permit application shall be filed with the Commission for review as provided in this bylaw within thirty (30) days of completion of the emergency work.

Upon failure to meet these and other requirements of the Commission, the Commission may order all such work stopped and after public notice and a hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than as stated in this Section, the exceptions provided in the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40 shall not apply.

### **Section 7.20 Application for Permits and Requests for Determination**

- Part 1 Written application shall be filed with the Commission to perform activities regulated by this bylaw affecting resource areas and adjacent areas protected by this bylaw. The application shall include such information and plans as deemed necessary by the Commission to describe proposed activities and their effects on resource areas and their values. Upon review of the application by the Commission, additional information may be required of the applicant to describe in greater detail the proposed activities and their effects on the environment. No activities shall commence without receiving a permit issued pursuant to this bylaw. (Except as provided in 7.15)
- Part 2 The Commission, may at its discretion, accept as the application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw, may, in writing, request a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.
- Part 3 At the time of the filing a request, the applicant shall pay a filing fee specified in regulations of the Commission. The fee is in addition to any required by the Wetlands Protection Act. The Commission may waive the filing fee on a request filed by a government agency or any other party that demonstrated hardship as determined by the Commission.

### **Section 7.25 Notice and Hearings**

- Part 1 Any person filing an application or a request for determination with the Commission shall give notice thereof by certified mail, (return receipt requested), or hand delivery (signed receipt) to all abutters in accordance with the regulations of the Commission.
- Part 2 The Commission shall conduct a public hearing on any application or request for determination. At the expense of the applicant, the Commission shall cause written notice of the hearing to be published at least five (5) working days prior to the public hearing in a paper of general circulation in the Town of Sandwich with which the Town has a contract for legal advertisement.
- Part 3 The Commission shall commence the public hearing within twenty-one (21) days from the receipt of a completed application or request for determination. The Commission or its agent shall determine, for scheduling purposes only and in accordance with the submission regulations of the Commission, that the application or request is complete. The twenty-one

(21) day deadline for a hearing may be extended by the Commission or its agent only with the written assent of the applicant.

- Part 4 The Commission may accept the applicant's request to continue the public hearing to a date and time certain, announced at the hearing, for reasons stated at the hearing, which may include the receipt of additional information offered by the applicant or others or information and plans required of the applicant deemed necessary by the Commission. In the event that an applicant objects to a continuance or neglects to furnish information requested by the Commission, the hearing will be closed and the Commission shall act upon the information as before it.
- Part 5 The Commission in appropriate case(s) may combine the hearing under this bylaw with that conducted pursuant to the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40.

### **Section 7.30 Coordination with Other Boards**

- Part 1 Any person filing a Notice of Intent or a request for determination with the Commission shall provide such notice thereof at the same time to the Town agencies as prescribed by the regulations of the Commission. The applicant or his representative shall furnish a sworn affidavit as to such notification at the time of filing. A form provided by the Commission, signed by the applicant, certified by a Notary Public, may be substituted for the affidavit.

### **Section 7.35 Permits, Determinations and Conditions**

- Part 1 If the Commission, after a public hearing, determines that the proposed activities which are the subject of the application are not likely to have significant or cumulative effects upon the wetland values protected by this bylaw, the Commission, within twenty-one (21) days of the close of the hearing, shall issue a permit for the activities requested. If a permit is issued, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those wetland values, and all activities shall proceed in accordance with those conditions.
- Part 2 The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon wetland values protected by this bylaw; where it is deemed that the denial is necessary to preserve the environmental quality of resource areas; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- Part 3 A permit issued under this bylaw shall expire three (3) years from the date of issuance. Notwithstanding, the Commission at its discretion may issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work, provided that an annual written notification of time and location be given to the Commission five (5) working days prior to the commencement of work. A permit may be renewed once for an additional (1) year period, at the Commission's discretion, provided that a request for renewal is received in writing by the Commission at least sixty (60) days prior to its expiration, unless the Commission provides for a longer period of validity, not to exceed three (3) years. The Commission shall, at their discretion, issue a determination for a definite period, not to exceed three (3) years.
- Part 4 The Commission may revoke or modify a permit issued under this bylaw for

noncompliance or just cause, after notification of the permittee by certified mail, publication of notice of hearing in a newspaper of general circulation in the Town and commencement of a public hearing no less than five (5) working days after the publication of the notice. The regulations shall establish the criteria for revocation.

- Part 5 The Commission in appropriate case(s) may combine the bylaw permit or determination with an Order of Conditions or Determination of Applicability (whichever is applicable) issued under the Wetlands Protection Act.

#### **Section 7.40 Wetlands Replication**

- Part 1 In order to protect the values inherent in wetland areas, it is the intent of this bylaw to preserve wetlands, surface water bodies and other resource areas as functioning natural ecosystems. Filling of wetlands is therefore prohibited except when mitigated by wetlands replication as permitted in this section. At its discretion, the Conservation Commission may permit activities involving wetlands replications that do not harm the wetlands values protected under this bylaw.
- Part 2 Wetlands replication, in order to make lands buildable, by fulfilling septic system setbacks, flood elevation requirements or other construction setbacks, or to achieve lot area requirements, is prohibited. Replication is prohibited in areas providing habitat for existing rare or endangered species as listed by the Massachusetts Natural Heritage Program.
- Part 3 Replication may be permitted in projects that provide access to otherwise buildable uplands, where no other upland access is possible. Replication may also be permitted when an overriding public purpose can be demonstrated. The creation of new wetlands may be permitted, without any concomitant wetlands filing when the applicant can demonstrate that such creation will not harm existing wetlands or their values. Purposes for creating new wetlands include, but are not limited to: the absorption of stormwater runoff, improvement of wildlife habitat, stabilization of unvegetated intertidal areas, experimental, or scientific purposes.
- Part 4 No more than twenty-five hundred (2,500) square feet of wetland may be filled in accordance with this section. The replicated wetland must be at least equal in size to the wetland that is filled and properly vegetated. Where the Commission determines it physically possible, replicated wetlands shall be made contiguous with existing natural wetlands. When a person owns abutting properties, any applications on the properties for wetlands replication, submitted within the calendar year, shall be treated as one proposal for the purpose(s) of evaluating wetlands replication, and the combined area to be filled shall not exceed twenty-five hundred (2,500) square feet.
- Part 5 Because replication is an experimental process and is subject to failure, the Commission may require any application requesting permission for wetland replication to conduct and fund a scientific monitoring program to last for a time period as determined by the Commission, but not to exceed five (5) years. If said monitoring period is less than five (5) years, the Commission shall review the results at the end of the monitoring period to determine if additional monitoring is needed within the maximum five (5) year period. The applicant shall provide an escrow bond for the duration of the monitoring period plus fifty (50) per cent, to cover correction of any deficiencies revealed during the monitoring program. Said bond shall, at a minimum, be equal to the initial cost of the replication.

### **Section 7.45 Regulations**

- Part 1 After public notice and public hearing, the Commission may, from time to time, promulgate performance standards, design specifications, policy guidelines, and other rules and regulations to accomplish the purposes of this bylaw. Failure of the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.
- Part 2 Any performance standards, design specifications, policy guidelines or other rules and regulations promulgated under a lawfully adopted Wetlands Protection ByLaw of the Town of Sandwich which may be superseded by this ByLaw shall be considered a part of this ByLaw at the time of its adoption.
- Part 3 Following a public hearing, the Commission may adopt an application fee for determinations, a permit fee schedule, all subject to final approval by the Board of Selectmen.

### **Section 7.50 Security**

- Part 1 The Commission may require the establishment of an escrow account or other security running to the municipality and sufficient as to form and surety in the opinion of the Commission's Counsel, to secure faithful and satisfactory performance of work required by any permit, in such sum and upon such conditions as the Commission may require.
- Part 2 Notwithstanding, the amount of such escrow account or security shall not exceed the estimated cost of the work required, plus fifty (50) per cent of the restoration of affected lands and properties if the work is not performed as required, whichever is greater. The forfeiture procedure for any such escrow account or security shall be in accordance with criteria established by the regulations of the Commission or may be recoverable at the suit of the municipality in Superior Court. The Commission may, at its discretion, accept as security, a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Sandwich whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

### **Section 7.55 Enforcement**

- Part 1 The Commission, its Officer(s), Agent(s) and employees shall have the right to enter and inspect privately-owned land for the purpose of performing their duties under this ByLaw. With the authority of the property owner or his designee, the Commission may make or cause to be made such examination(s), survey(s), or sampling(s), as the Commission deems necessary.
- Part 2 The Commission shall have the authority to enforce this ByLaw, its regulations, permits issued hereunder, and enforcement orders by issuing violation orders, enforcement orders, administrative orders, or by civil and criminal actions, or requiring restoration of the affected resource area(s) to its original condition, prior to the violation or undertake any other enforcement action authorized by law. In a situation requiring immediate action, an Enforcement Order may be signed by a single member or agent of the Commission if said order is ratified by a majority of the members of the Commission at their next scheduled meeting.
- Part 3 Upon the request of the Commission, the Town Counsel/Board of Selectmen may take legal action for the enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for the enforcement under criminal law.

- Part 4 Upon the request of the Commission, municipal boards and officers, including any police officers, natural resource officers, conservation officers, or other officers having police powers, shall have authority to assist the Commission in enforcement.
- Part 5 Any person who violates any provision of the ByLaw, regulations thereunder, or permits issued thereunder, or fails to comply with an enforcement order, or fails to restore illegally-filled wetlands, or fails to remove unauthorized fill in a resource area, shall be punished by a fine of not more than three hundred (\$300.00) dollars or in the case of non-criminal enforcement a fine of fifty (\$50.00) dollars. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the ByLaw, regulations, or permit violated, shall constitute a separate offense.
- Part 6 As an alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in Massachusetts General Laws, Chapter 40, Section 21D as adopted by the Town of Sandwich. For the purposes of non-criminal enforcement, any Commission members, Conservation officers, Natural Resource officers, or any Police officer of the Town of Sandwich shall be designated as an enforcement person.

### **Section 7.60 Burden of Proof**

- Part 1 The applicant shall have the burden of proving by a preponderance of credible evidence that the work proposed in the application will not have an unacceptable significant and cumulative effect upon the wetland values protected by this ByLaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.
- Part 2 The Commission is authorized to require the applicant to pay reasonable costs and expenses borne by the Commission or the Town for specific expert engineering and consultant services, deemed necessary by the Commission to review the Notice of Intent and/or the Request for Determination of Applicability, up to a maximum of two thousand and five hundred (\$2,500) dollars. Said payment may be required at any point in the deliberations prior to a final decision being rendered. Said services may include but are not limited to: wetland resource area surveys and delineations, wetland resource area reports, hydrogeological and drainage analysis, wildlife evaluation, shellfish and finfish surveys, water quality analysis, and environmental/land use law.

The Commission is hereby authorized to charge for said fee when the Notice of Intent and/or Request for Determination of Applicability proposes any of the following: alteration of five hundred (500) square feet or more of buffer zone, alteration of five hundred (500) square feet or more of land under a waterbody and/or the ocean, alteration of fifty (50) linear feet or more of coastal bank or bank of an inland waterway, discharge of any pollutants into a wetland resource area, its buffer zone and/or contribution to the surface water or groundwater of a wetland resource area, and/or the construction of any detention and/or retention basin and/or water control structure.

Any applicant aggrieved by the imposition of, or the size of, the fee of any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

### **Section 7.65 Relation to the Wetlands Protection Acts**

This ByLaw is adopted under the Home Rules Amendment of the Massachusetts Constitution and the Home Rules Statutes, independent of the Wetland Protection Act, Massachusetts General Laws, Chapter 131, Section 40, and regulations thereunder, except where specifically included herein.

**Section 7.70 Severability**

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

**Section 7.75 Appeal**

A decision of the Commission may be appealed to the Superior Court of Barnstable County by an applicant, owner, immediate abutter or ten (10) citizens of the Town of Sandwich, within sixty (60) days of the date of the decision, which shall review the record, and if found to be reasonable, shall uphold the Commission’s decision.

**Section 7.80 Definitions**

The following definitions shall apply in the interpretation of this ByLaw. Additional definitions shall be set forth in the regulations promulgated in accordance with this ByLaw. Definitions not found in these documents shall be found in 310 CMR 10.00:

Alter: To change the condition of areas within jurisdiction of the Conservation Commission activities presumed to alter these areas, include, but are not limited to the following:

- a) Removal, excavation or dredging of soil, sand, gravel, stone or aggregate materials of any kind;
- b) Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- c) Drainage or other disturbance of water level or water table;
- d) Dumping, discharging, or filling with any material;
- e) Placing of fill or brush or removal of materials;
- f) Erection of buildings or structures of any kind, installation of piles except in accordance with any pier maintenance regulations established by the Commission;
- g) Destruction of plant life including the cutting of trees, application of pesticides or herbicides except in accordance with agriculture exemptions set forth in Section 3;
- h) Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- i) Any activities, changes or work which pollute in any way any body of water or ground water.

Commission: The Sandwich Conservation Commission of the Town of Sandwich.

Person: Any individual, group of individuals, associations, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasipublic corporation or body, the Town of Sandwich, and any other legal entity, its legal representatives, agents or assigns.

Adopted May 7, 1979 (Article 20)  
 Amended May 6, 1985 (Article 44)  
 Amended September 28, 1987 (Article 24)  
 Amended May 6, 1991 (Article 46)  
 Amended May 4, 1992 (Article 53)

## **CHAPTER 8 COUNCIL ON AGING**

### **Section 8.00 Establishment**

The Town created a Council on Aging and adopted the following bylaw in accordance with the provisions of Chapter 40, Section 8B of the Massachusetts General Laws.

### **Section 8.05 Appointment by Selectmen**

The Board of Selectmen shall appoint a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in cooperation with programs of the Commission on Aging established under Chapter 6, Section 73 of the Massachusetts General Laws.

### **Section 8.10 Membership**

The Board of Selectmen shall appoint the Council on Aging consisting of eleven (11) members. Upon acceptance of this bylaw, the Board shall appoint three (3) members for three (3) years, two (2) members for two (2) years and two (2) members for one (1) year terms. Members can be reappointed for concurrent terms. The members of the Council shall serve without pay.

### **Section 8.15 Vacancy**

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 by appointment by the Selectmen for the remainder of the term.

### **Section 8.20 Officers**

The Council on Aging at its first annual meeting and thereafter, annually in April of each year, shall elect from its membership a President, First Vice President, Second Vice President, Secretary and Treasurer. Each officer shall hold office until the next annual election. In the event a vacancy occurs in any of the offices above, the Council shall hold a special meeting for the purpose of electing one of its members to fill such vacancy.

### **Section 8.25 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.

### **Section 8.30 Staffing**

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

Adopted March 6, 1972 (Article 22)

Amended May 5, 1975 (Article 43)

## CHAPTER 9 BOAT OPERATIONS AND USE OF WATERWAYS

### Section 9.01 Purpose

The purpose and intent of this bylaw is to protect the health, safety and well being of the citizens and visitors using Sandwich's waterways and to protect the quality and viability of the Town's natural resources by the reasonable regulation of the operation of watercraft.

### Section 9.02 Definitions

**Great Pond** shall mean a natural pond the area which is twenty (20) acres or more.

**Headway Speed** shall mean the minimum speed at which a vessel may be operated and maintain steerage way, but not to exceed six (6) miles per hour.

**Horsepower** shall mean the aggregate rated horsepower of all propellant machinery at maximum operating revolutions per minute.

**Licensed Docks and Piers** shall mean docks and piers that have a valid Order of Conditions from the Sandwich Conservation Commission and a valid license from the Massachusetts Department of Environmental Protection, to install and maintain the dock or pier.

**Limited Operation Zone** shall mean the area of the waterbody, as measured three hundred (300) feet from the shoreline being used as a public or private swimming beach, towards the center of the particular waterbody.

**Motorboat** shall mean any vessel propelled by machinery whether or not such machinery is the principal source of propulsion.

**Nighttime** shall mean the period from sunset to sunrise as determined by the chart attached in Appendix 1.

**Overloaded** shall mean the number of persons aboard or cargo being carried, exceeds the manufacturer's recommended limit for such vessel or is excessive given wind, water and weather conditions.

**Owner** shall mean the person to whom the vessel is registered, or to whom the vessel mooring is registered. In the case of an unregistered vessel, the last registered owner/purchaser shall be considered the owner.

**Personal Watercraft** shall mean a vessel, by whatever name, propelled by a water jet pump or other machinery as its principal source of motor propulsion which is designed to travel over water and to be operated by a person sitting, standing or kneeling on the vessel rather than being operated in the conventional manner by a person sitting or standing inside the vessel, including but not limited to, jet skis, surf jets, and wet bikes.

**Shoreline Safety Zone** shall mean the area of the waterbody, as measured, one hundred fifty (150) feet from a shoreline, which is being used as a public or private swimming area or the area of the waterbody, as measured, seventy-five (75) feet from the waterside boundary of a public or private swimming area, if designated by markers, floats, or otherwise, towards the center of the particular waterbody.

**Similar Device** when used in connection with the words "water skis" and "surfboard" shall mean any object used in the towing of a person or persons by a motorboat whether the person or persons ride on the device or hold onto it.



**Sunrise – Sunset** shall be determined by the chart set forth in the current issue of Eldridge’s Tide and Pilot Book.

**Town** shall mean the Town of Sandwich, Massachusetts.

**Town Hall Annex** shall mean the building at 145 Main Street, Sandwich, Massachusetts.

**Town Office Building** shall mean the building at 16 Jan Sebastian Drive, Sandwich, Massachusetts

**Vessel** is a watercraft of every description used or capable of being used as a means of transportation on water, except a seaplane on the water.

**Wake – Wash** shall mean the discharge from the stern portion of a motorboat or personal watercraft or other vessel which causes excessive rocking to other vessels, rafts, or floats.

**Water Skiing** shall mean the towing of a person or person(s) on water skis, or manipulation of a person or person(s) on water skis, or on a surf board or other similar device behind a vessel.

### **Section 9.03 Vessel Speed**

- (1) Vessel speed shall not exceed headway speed and no wake - wash shall be created on any pond not a Great Pond.
- (2) Vessel speed shall not exceed headway speed and no wake – wash shall be created on the following Great Ponds: Lower Shawme Pond and Upper Shawme Pond, or other Great Pond of less than seventy-five (75) acres in size.
- (3) Vessel speed shall not exceed headway speed and no wake - wash shall be created in areas posted by the Town, within marked channels, nor within one hundred fifty (150) feet of individual bathers, divers, small vessels propelled by means other than machinery (e.g. rowboats, sailboats), mooring areas, public and private boat launch areas, floats, marinas, licensed docks and piers, vessels not underway, nor within a limited operation zone.
- (4) No vessel shall be operated at any time on any pond at a speed greater than is reasonable and proper having regard for the lives and safety of the public; the state of visibility; the traffic density; the maneuverability of the vessel; the state of wind, water and current; and the proximity of navigational hazards.
- (5) Vessels operating on Peters Pond shall not exceed thirty-five (35) miles per hour.

### **Section 9.04 Horsepower**

- (1) Horsepower of internal combustion engines shall not exceed six (6) horsepower on any pond not a Great Pond; however, no internal combustion engines shall be operated on the Upper and Lower Shawme Ponds except for emergency watercraft or town-authorized maintenance vessels. An electric motor, commonly known as an electric trolling motor, may be used for propulsion on the Upper and Lower Shawme Ponds.
- (2) Horsepower of internal combustion engines shall not exceed ten (10) horsepower on Pimlico Pond.
- (3) Horsepower of internal combustion engines shall not exceed fifteen (15) horsepower on the following Great Ponds: Lawrence Pond; Triangle Pond; Spectacle Pond; Snake Pond.
- (4) There shall be no horsepower limitation on Peters Pond.

- (5) Notwithstanding the other provisions of Chapter 9, the Board of Selectmen or their designee shall permit persons operating larger horsepower engines on Town waterways, prior to January 2001, to continue to operate larger horsepower engines on Lawrence Pond, Spectacle Pond, and Snake Pond, for a period of seven (7) years from the date of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 9, but no later than December 31, 2008, provided such persons shall provide proof of such use to the Conservation Officer, and provided that such persons meet the guidelines promulgated by the Board of Selectmen concerning the requirements for continuation of the use of larger horsepower engines. These guidelines shall be promulgated by the Board of Selectmen within one hundred twenty (120) days of the receipt of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 9.
- (6) Notwithstanding the other provisions of Chapter 9 and recognizing that some long standing non-profit organizations have utilized various waterbodies for instructional purposes, the Board of Selectmen may permit these non-profit organizations continued use of larger horsepower engines for transport or safety vessels, not to exceed fifty (50) horsepower, within set guidelines. These guidelines shall be promulgated by the Board of Selectmen within one hundred twenty (120) days of the receipt of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 9. The non-profit organization shall submit an application which is available at the Conservation Department. Following a public hearing on the application, the Board of Selectmen may issue a permit to allow the continued use of larger horsepower engines. Any permit issued shall expire five (5) years from the date of issue. Violations of the permit conditions may be cause for revocation.
- (7) Sections 9.04 (3), (5) & (6) shall not be enforced until the guidelines referenced in 9.04 (5) & (6) are promulgated by the Board of Selectmen.

#### **Section 9.05 Operation**

- (1) Vessels shall not be operated on any pond at greater than headway speed and create no wake - wash, between the hours of sunset to sunrise.
- (2) No vessel shall be operated at any time on any pond in an overloaded condition.
- (3) Motorboats and Personal Watercraft shall not be operated within a shoreline safety zone except for the purpose of launching or retrieving such vessel provided they remain outside of the designated swimming area(s), and operate at headway speed, only within the shoreline safety zone.
- (4) Personal Watercraft operation is prohibited on Peters Pond, after the hour of 7:00 PM or after sunset, whichever occurs first, and before sunrise, daily.
- (5) Personal Watercraft operation is prohibited on Peters Pond, when vision is unduly restricted by weather.

#### **Section 9.06 Scuba Diving**

- (1) Any person SCUBA diving or group of SCUBA divers while swimming on or under the surface of the waters of Sandwich shall display for each diver or group of divers as a warning device to boat operators, a diver's flag, so called, constructed of rigidly supported material, at least twelve (12) inches by fifteen (15) inches in area of red background with a white diagonal stripe. Such diver's flag shall be displayed on a boat or surface float and shall extend a minimum distance of three (3) feet from the surface of the water. Divers shall remain in an area within one hundred (100) feet of such displayed diver's flag while at or near the surface of the water. A boat operator within sight of a diver's flag shall proceed with caution and within a radius of one

hundred (100) feet of such flag shall proceed at a speed not to exceed headway speed.

**Section 9.07 Pollution**

- (1) The discharge or disposal of oil, sewage, dead fish, fish parts, garbage, waste, rubbish or debris from vessels on or into the waters or onto the shores of Sandwich, is prohibited.

**Section 9.08 Enforcement**

- (1) The provisions of this bylaw shall be enforced by the Conservation Officer, Harbormaster, Assistant Harbormasters, or by a Police Officer of the Town assigned to patrol Town waterways.
- (2) All persons shall stop when directed to do so by an officer empowered to enforce this bylaw.

**Section 9.09 Penalties**

- (1) Whoever violates any of the provisions of this bylaw and refuses or neglects to obey the lawful and reasonable order of those empowered to enforce the same, or resists them in the discharge of their duties, shall be fined not more than three hundred (\$300) dollars or in the case of non-criminal enforcement, fifty (\$50) dollars for the first offense and two hundred (\$200) dollars for every violation, thereafter. Each day or portion thereof during which a violation continues shall constitute a separate offense and each provision of the bylaw violated shall constitute a separate offense.
- (2) As an alternative to criminal prosecution, the enforcing agent may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Chapter 40, Section 21D as adopted by the Town of Sandwich.

**Section 9.10 Jurisdiction**

- (1) Nothing contained herein shall be held or construed to supersede or conflict with or interfere with or limit jurisdiction of the United States Government with respect to the enforcement of the navigation, shipping, anchorage and associated laws of the United States, or any lawful regulation of the Massachusetts Division of Waterways, or the Division of Law Enforcement, or to conflict with any laws or regulations of the Commonwealth of Massachusetts. Vessels operated by public safety agencies of the Town, State or the United States Government are exempt from complying with the provisions of this bylaw.

**Section 9.11 Severability**

- (1) The invalidity of any provision of this bylaw shall not invalidate any other provision thereof.

Adopted March 19, 2001 (Article 3)

## CHAPTER 10

### Prohibition of Smoking in Certain Places within the Town of Sandwich

#### Section 10.01 Definitions

As used in this article:

**Board:** The Board of Health of the Town of Sandwich

**Bar:** An establishment whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. (*Incidental food is limited to prepackaged snack foods and food that only requires minimum preparation.*)

**Employee:** Any person who performs services for an employer.

**Health Care Facility:** Any office or institution providing care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited to rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions.

**Indoor Sports Arena:** Any sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar recreational facilities where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

**Person:** Any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or designees of the foregoing.

**Public Place:** Any building or facility owned, leased, operated or occupied by the municipality, including school buildings or grounds; any indoor enclosed area open to the general public including, but not limited to, libraries, museums, theaters, auditoriums, indoor sports arenas, and/or recreational facilities, inns, hotel and motel lobbies, educational facilities, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrances, elevators accessible to the public, and licensed child-care locations.

**Public Transportation:** Buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the town including indoor platforms by which such means of transportation may be accessed.

**Restaurant:** Any coffee shop, cafeteria, sandwich shop, private and public school cafeteria and other eating establishment which gives or offers food for sale to the public, guests, or employees for on-premises consumption, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

**Retail Food Store:** Any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary activity is the sale of food items to the public for off-premises consumption.

**Retail Store:** Any establishment whose primary purpose is to sell or offer for sale to consumers, but not for resale, any goods, wares, merchandise, articles or other things, including retail food stores. "Retail store" shall not include restaurants as defined herein.

**Smoking:** Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any form.

**Town:** The Town of Sandwich.

**Work Place:** Any enclosed area of a structure or portion thereof at which one (1) or more employees perform services for their employer.

#### **Section 10.02 Notice of Prohibition**

Every person having control of premises upon which smoking is prohibited by and under the authority of this article shall conspicuously display upon the premises "No Smoking" signs provided by the Massachusetts Department of Public Health and available from the Sandwich Board of Health.

#### **Section 10.03 Smoking Prohibited**

No person shall smoke nor shall any person, employer, or other person having control of the premises upon which smoking is prohibited by this article, or the agent or designee of such person, permit a person to smoke in any of the following places as defined, herein: bars, health care facilities, public places, public transportation, restaurants, retail stores, and work places except as otherwise provided in Section 4 of this article.

Additionally, no person shall smoke in any place in which a sign conforming to the requirement of Section 2 of this article is posted. No person shall remove a sign posted under the authority of Section 2 of this article.

#### **Section 10.04 Exceptions**

Notwithstanding the provision of Section 3, smoking may be permitted in the following places and/or circumstances:

- a) Private residences, except those portions used as a childcare or health care office when operating as such.
- b) Hotel and motel rooms rented to guests that are designated as smoking rooms.
- j) Private or semi-private rooms of nursing homes and long-term care facilities, occupied by one (1) or more patients, which are separately ventilated and all of whom are smokers who have requested in writing to be placed in rooms where smoking is permitted.
- k) Retail tobacco stores, which are solely for the sale of tobacco products, prohibit minors from entering the establishment, and which are not required to possess a retail food permit.

#### **Section 10.05 Violations**

It shall be a violation for any employer or other person having control of the premises upon which smoking is prohibited by this article, or the agent or designee of such person to permit a violation of this article.

It shall be a violation for any person to smoke in any area where smoking is prohibited by the provisions of this article.

Any person who violates any provision of this article shall be subject to a fine of fifty (\$50.00) dollars for the first violation, one hundred (\$100.00) dollars for the second violation, and two hundred (\$200.00) dollars for a third or subsequent violations during any one calendar year.

**Section 10.06 Enforcement**

The Sandwich Board of Health or its agent shall enforce this article.

One method of enforcement may be periodic, unannounced inspections of those establishments subject to these regulations.

Any citizen who desires to register a complaint under these regulations may do so by contacting the Sandwich Board of Health.

Whoever violates any provision of this article, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint. Any fines imposed under the provisions of this article shall inure to the Town of Sandwich for such use as the Town may direct.

Each day on which any violation exists shall be deemed to be a separate offense.

**Section 10.07 Severability**

If any paragraph or provision of this article is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

**Section 10.08 Other Applicable Laws**

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable health, safety or fire codes, regulations or statutes.

**Section 10.09 Effective Date**

This article will be effective on July 1, 2001 or upon approval by the Office of the Attorney General of the Commonwealth of Massachusetts, whichever date is the later.

Adopted May 7, 2001 (Article 40)