

## **SECTION 15            ADMINISTRATION AND ENFORCEMENT**

<b>SECTION 15.1</b>	<b>ENFORCEMENT AUTHORITY</b>
<b>SECTION 15.2</b>	<b>PLANS AND PERMITS</b>
<b>SECTION 15.3</b>	<b>PENALTIES FOR VIOLATION</b>
<b>SECTION 15.4</b>	<b>PLANNING BOARD</b>
<b>SECTION 15.5</b>	<b>BOARD OF APPEALS</b>
<b>SECTION 15.6</b>	<b>AMENDMENT</b>
<b>SECTION 15.7</b>	<b>REPETITIVE PETITIONS BEFORE TOWN MEETINGS</b>
<b>SECTION 15.8</b>	<b>REPETITIVE PETITIONS BEFORE BOARD OF APPEALS</b>
<b>SECTION 15.9</b>	<b>REPEAL</b>
<b>SECTION 15.10</b>	<b>VALIDITY</b>

### **15.1    ENFORCEMENT AUTHORITY**

- 15.1.1**    This By-Law shall be enforced by the Building Inspector who shall be appointed by the Board of Selectmen.
- 15.1.2**    The Building Inspector shall approve no applications for permits required under this By-Law for a building or structure of any kind for which plans and specifications and intended use are not in all respects in conformity with this By-Law. Where site plan approval from the Planning Board or a special permit from the Special Permit Granting Authority is required pursuant to the provisions of this By-Law, the Building Inspector shall issue no permit except in accordance with the written decision of said Board.
- 15.1.3**    The Building Inspector shall have full authority to prosecute in any court of competent jurisdiction any action, suit or proceeding for the enforcement of this By-Law and the Building Inspector shall have all powers vested by M.G.L. Chapter 40A relative to the Zoning Enforcement Officer.

### **15.2    PLANS AND PERMITS**

- 15.2.1**    No tent, no foundation, no building, and no structure shall be erected or substantially altered without a building permit issued by the Building Inspector. A record of such applications and the survey and plans herein referred to and action taken thereon shall be kept on file in the Town Office by the Building Inspector.
- 15.2.2**    No building permit shall be issued until the following requirements are met:
  - A.**    A survey of the lot, in duplicate, drawn by a registered land surveyor to scale showing the dimensions of the lot and location and size of buildings or structures existing on the lot.
  - B.**    Duplicate plans of the proposed buildings or structures with sufficient detail to show conformity to the By-Law.
  - C.**    All corners of the lot marked with iron pins, or stone bounds.

- D. Approved percolation test under Board of Health Rules and Regulations.
- E. The above requirements may be modified or waived where in the judgment of the Building Inspector they are not applicable to the work proposed and where it is clearly demonstrated, through deeds, surveys, documents or other supporting information, that they are not necessary to establish compliance with the Zoning By-Law.
- F. A building permit which involves construction shall be valid for a period of six (6) months from date of issuance. If construction is not commenced and being carried out in a continuous and expeditious manner, at the end of said six (6) month period the permit shall expire. If the permit lapses and a new permit is issued on substantially the same plans, the Building Inspector may waive the building permit fee for that second submission.

**15.2.3** No newly erected or altered structure for which a building permit is required under this By-Law shall be occupied or used without an occupancy permit, which permit shall be applied for in writing to the Building Inspector before the building is occupied. It shall be signed by the Building Inspector, and shall be issued when the building and its uses and accessory uses comply in all respects with this By-Law. Any building not described as a residence or dwelling in the application for building permit, and any building not built as a dwelling prior to the adoption of this By-Law, may not hereafter be used for living purposes without an occupancy permit.

**15.3 PENALTIES FOR VIOLATION**

All persons who violate this Zoning By-Law shall be subject to fines imposed pursuant to the following rules and specifications.

**15.3.1** For each violation of the Zoning By-Law, a fine shall be imposed subject to the following rules and specifications:

- A.\* Violators shall include the owners and/or occupants of the property and their agents who have taken any part in the creation or installation of any structure, sign or use which violates the Zoning By-Law.
- B. Fines shall be assessed separately against those owners and/or occupants of the property and their agents who are responsible for the creation or continuance of the violation for which said fine or fines are being assessed.
- C. Prior to the imposition of any fine, written notice of the nature of the violation shall be given to the person or persons against whom the fine is to be imposed. Said notice shall state the first date upon which a fine shall be imposed for a continuing violation of this By-Law, which date shall not be

less than seven (7) days from receipt of said notice and which shall also contain reference to each specific Section of the By-Law which is being violated together with a statement of the penalty for said violation.

- D. Unless otherwise provided in the By-Law, the penalty for each offense shall be one hundred (100) dollars. Each day that a violation continues shall be deemed a separate offense. Each separate violation of any Section of the By-Law, as listed in said notice, shall also constitute a separate offense.

**15.3.2** In addition to the procedures for enforcement as described above, the provisions of this By-Law, the conditions of a permit granted under this By-Law or any decision rendered by the Zoning Board of Appeals or Planning Board under this By-Law, may be enforced by the Building Inspector by non-criminal complaint pursuant to the provisions of Chapter 40, Section 21D of the Massachusetts General Laws. The fine for any violation disposed of through this procedure shall be one hundred dollars (\$100.00) for each offense. Each day such violation continues shall be deemed a separate offense.

## **15.4 PLANNING BOARD**

**15.4.1** There shall be a Planning Board consisting of five (5) members, one of whom shall be elected each year for a term of five (5) years.

**15.4.2\*** Pursuant to Chapter 40A, Section 9 of the General Laws of the Commonwealth and Section 308 of the General Bylaws of the Town of Wilbraham, there may also be appointed one (1) associate member authorized to serve as an alternate voting member on special permit applications.

**15.4.2.1** The associate member shall be nominated by the Planning Board and appointed by majority vote of the Planning Board and the Board of Selectmen in accordance with the provisions of Chapter 41, Section 81-A of the General Laws of the Commonwealth.

**15.4.2.2** The associate member shall be appointed for a three (3) year term, or, in the case of an unexpired term, for the balance of said term. The associate member shall be reappointed or replaced as provided for in Section 15.4.2.1.

**15.4.2.3** The associate member shall serve on the Board as an alternate voting member on special permit applications in the case of absence, inability to act, or conflict of interest on the part of a regular Board member, or in the event of a vacancy on the Board.

**15.4.2.4** The Planning Board Chair shall authorize the associate member to sit on the Board as an alternate voting member when necessary and in accordance with the above circumstances. However, it is also expected that the associate member will attend regular meetings of the Planning Board and may participate as a non-voting member in discussions and other matters before the Board.

**15.4.3\*** The Planning Board shall adopt, and may periodically amend by majority vote after a public hearing, Rules and Regulations as may be necessary to carry out its administrative responsibilities under this By-Law including the establishment of reasonable administrative fees and application fees as well as project review fees as authorized by M.G.L. Chapter 44 Section 53G to defray the cost of hiring outside consultants when needed for the technical review of site plan approvals, special permits and ridgeline and hillside reviews. A copy of said Rules and Regulations shall be filed with the Town Clerk.

## **15.5 BOARD OF APPEALS**

### **15.5.1 Establishment**

There shall be a Board of Appeals consisting of three (3) members appointed for terms of such length and so arranged that the term of one appointee shall expire each year. There shall also be appointed two (2) associate members for a term of three years. No person holding an elective town office shall be eligible to serve as a member or associate member of the Board of Appeals.

### **15.5.2 Powers and Duties**

**15.5.2.1** To hear and decide applications for special permits upon which the Board is empowered to act by this By-Law.

**15.5.2.2** To hear and decide petitions for variances from the terms of this By-Law with respect to particular land or structures, but not to include variances for use. Such variance shall be granted only in cases where the Board of appeals finds all of the following:

- A.** A literal enforcement of the provisions of this By-Law would involve a substantial hardship, financial or otherwise, to the petitioner.
- B.** The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structure and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

- C. Desirable relief may be granted without substantial detriment to the public good.
- D. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this chapter.

**15.5.2.3** To hear and decide appeals from:

- A. Any person aggrieved by reason of that person's inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A of the Massachusetts General Laws; or
- B. The Pioneer Valley Regional Planning Commission; or
- C. Any person including an officer or board of the Town of Wilbraham or of any abutting city or town, if aggrieved by any order or decision of the Building Inspector or other administrative official, in violation of any provision of Chapter 40A of the Massachusetts General Laws or this By-Law as adopted thereunder.

**15.5.2.4** To issue comprehensive permits as authorized by Chapter 40B, Sections 20 - 23, of the Massachusetts General Laws.

**15.5.2.5** To issue building permits withheld by the Building Inspector under Chapter 41, Section 81Y of the Massachusetts General Laws.

**15.5.3\* Rules and Regulations**

The Board of Appeals shall adopt, and may periodically amend by majority vote after a public hearing, Rules and Regulations as may be necessary to carry out its administrative responsibilities under this By-Law including the establishment of reasonable administrative fees and application fees as well as project review fees as authorized by M.G.L. Chapter 44 Section 53G to defray the cost of hiring outside consultants when needed for the technical review of variances, administrative appeals, special permits and comprehensive permits. A copy of said Rules and Regulations shall be filed with the Town Clerk.

**15.6\* AMENDMENT**

This Zoning By-Law may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of Section 5 of Chapter 40A of the General Laws, as amended.

A proposed amendment to the By-Law may be initiated by the Board of Selectmen, the Planning Board, the Board of Appeals, the Pioneer Valley Planning Commission, individuals owning land to be affected by the amendment, or registered voters of the Town pursuant to Section 10 of Chapter 39 of the General Laws.

The Planning Board, after giving proper legal notice, shall hold a public hearing for the consideration of any amendment to this By-Law, and shall report to town meeting its recommendations as to what action should be taken. Petitioners seeking to amend the Zoning By-Law may be charged reasonable fees sufficient to cover the administrative costs of holding the public hearing as may be established under the Rules and Regulations of the Planning Board.

**15.7 REPETITIVE PETITIONS BEFORE TOWN MEETINGS**

No proposed by-law making a change in this zoning by-law which has not been favorably acted upon by the Town Meeting shall be considered on its merits by the Town Meeting within two (2) years after the date of such action unless adoption of such proposed by-law is recommended in the final report of the Planning Board, as required by the General Laws.

**15.8 REPETITIVE PETITIONS BEFORE BOARD OF APPEALS**

No appeal or petition for a variance from the terms of this By-Law with respect to a particular parcel of land, and no application for a special exception to the terms of this By-Law, which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two (2) years after the date of such unfavorable action except with the consent of all the members of the Planning Board.

**15.9 REPEAL**

Any existing By-law or any parts thereof inconsistent with this By-Law are hereby repealed.

**15.10 VALIDITY**

The invalidity of any section or provision of the by-law shall not invalidate any other section or provision thereof.