

# OAKHAM GENERAL BYLAWS

## CHAPTER I / 1      GENERAL PROVISIONS

- Section 1.**      The following provisions shall constitute the General Bylaws of the Town of Oakham, Massachusetts.
- Section 2.**      Words and phrases specifying or naming any officer, board, or committee of the Town, shall be construed as including the lawful successor, or the person or persons having the powers and performing the duties of such officer, board or committee.
- Section 3.**      Whoever violates any of the provisions of these bylaws whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a penalty not exceeding twenty dollars for each offense.
- Section 4.**      Any or all of these bylaws may be repealed or amended or other bylaws may be adopted at any Town Meeting, an article or articles for that purpose having been inserted in the warrant for such meeting by the Selectmen.

## CHAPTER II / 2      TOWN MEETINGS

- Section 1.**      The Annual Town Election shall be called at 10 o'clock forenoon on the Third Monday of May of each year. The polls will be open at 10:00 a.m., and shall remain open until 8:00 p.m., for the purpose of election of Town Officers and voting on such matters as may be voted for on the ballot.
- Adopted at Annual Town Meeting, June 26, 1989 (Section 1). Approved by Attorney General, James M Shannon, October 12, 1989.
- Section 2.**      The Annual Town Meeting will be called at 7:30 p.m., on the second Monday in May.
- Adopted by Annual Town Meeting, May 12, 1986. Approved by Assistant Attorney General, Henry F. O'Connell, June 12, 1986.
- Section 3.**      Notice of every Town meeting shall be given by posting attested copies of the warrant therefor, in at least three public places, not less than seven days before the day fixed for such Annual Town Meeting and not less than fourteen days before such Special Town Meeting.
- Adopted at Special Town Meeting. Approved by Attorney General Francis X. Bellotti.
- Section 4.**      At least four days before the day fixed in the warrant for the Annual Town Meeting, the Selectmen shall make available to the voters copies of the Annual Town Report.
- Section 5.**      The number of voters necessary to constitute a quorum at any Town meeting shall be ten, provided that a number lesser than a quorum may from time to time adjourn the same. This shall not apply to such parts of meetings as are devoted to the election of Town officers.
- Section 6.**      Articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by vote of the meeting.
- Section 7.**      Any motion, if required by the Moderator or Town Clerk, shall be presented in writing.

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- Section 8.** If a motion is susceptible of division, it shall be divided and the question shall be put separately upon each part thereof, if seven voters so request.
- Section 9.** There shall be no than two amendments to a motion.
- Section 10.** When a question is put, the sense of the meeting shall be determined by the voices of the voters and the Moderator shall declare the vote as it appears to him. If the Moderator is unable to decide the vote by the sound of the voices, or if his decision is immediately questioned by three or more voters rising in their places for that purpose, he shall determine the vote by ordering a show of hands and he may appoint tellers to make and return the count.
- Section 11.** The meeting may order that the vote on any motion shall be taken by a "Yes and "No" ballot.
- Section 12.** There shall be no reconsideration of a vote once reconsidered, and when reconsideration shall have once been refused by the meeting, the Moderator shall refuse to entertain any motion for further reconsideration.
- Section 13.** No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant therefor has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.
- Section 14.** All committees shall report as directed by the Town. If no report is made within one year after the appointment, a committee shall be discharged unless, in the meantime, the Town shall have granted an extension of time.

### CHAPTER III / 3 TOWN OFFICERS

- Section 1.** The Selectmen shall be agents of the Town to institute, prosecute, and defend claims, actions and proceedings to which the Town is a party or in which the interests of the Town are or may be involved, and may appoint Counsel to advise and represent the Town, officers, boards, and departments of the Town in any legal matters.
- Section 2.** The Selectmen shall cause each Town officer and department head having custody of Town property to keep a true inventory thereof on file, and each officer and department head shall deliver a copy of said inventory to the Selectmen at least annually.
- Section 3.** The Board of Assessors shall cause the Town's "Valuation and Taxes" to be printed at least once in three years.
- Section 4.** Any Town officer and board having charge of Town property or material not required for Town purposes may sell the same with the approval of the Selectmen, to an amount not exceeding two hundred dollars in any one year.

Adopted at the Annual Town Meeting, February 4, 1952. Approved by Attorney General, Francis X. Kelly, April 23, 1952.

- Section 5.** All Town Officers, Inspectors and Agents shall during July, cause a report to be written and submitted to the Board of Selectmen. Such report to include the amount

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of money deposited in the Town Treasury by said Officer, Inspector or Agent and the amount of money returned during the prior fiscal year as compensation for services rendered. Said report shall also indicate in a descriptive manner, the total number of licenses, or inspections or other services issued or rendered by the Town Officer, Inspector or Agent during the prior fiscal year.

**Section 6.** Unless other provisions is made in the General Laws of the Commonwealth or the bylaws of the Town of Oakham, all Town Officers, Inspectors and Agents (except those compensated by salary or otherwise) shall be compensated for all services for which fees are charged, by reimbursement of an appropriate portion (not to exceed 100%) of the fee charged.

Voted Special Town Meeting, November 12, 1982. Approved by Attorney General Francis X. Bellotti, January 20, 1983.

**Section 7.** The Tax Collector is allowed to keep for his/her services, the fee for issuance of Certificates of Municipal Liens. Provided by Chapter 60, Section 23 of the General Laws.

Adopted at the Special Town Meeting, April 24, 1985. Approved by Assistant Attorney General, Henry F. O'Connell, June 6.

**Section 8.** The Town may deny any application for, or revoke or suspend, any local licensee or permit including renewals and transfers, issued by any board, officer, or department, for any person, corporation, or business enterprise who has neglected or refused to pay any local taxes, fees, or betterments, or any other municipal charges. This section shall not apply to open burning permits, sales of charitable purposes, children's work permits, food and beverage licenses, fishing/hunting permits, marriage licenses and public exhibition permits.

Adopted at the Annual Town Meeting, June 23, 1992. Approved by reason of such failure of the Attorney General to act, October 15, 1992.

## **CHAPTER IV / 4      REMOVAL OF SOIL**

Sections 1,2, and 3 deleted from General Bylaws for the Town of Oakham. See Chapter XIV - ZONING, Sections 3, 4 and 6.

Adopted at the Annual Town Meeting, June 26, 1989. Approved by Attorney General, James M. Shannon, October 12, 1989.

## **CHAPTER V / 5      BOARD OF APPEALS**

**Section 1.** [Superseded 4/13/1977 by Chapter XIII - Board of Appeals] A Board of Appeals is hereby established in accordance with the provisions of Chapter 41, Section 81Z, of the General Laws, consisting of three years, one for a term of two years, and one for a term of one year, and thereafter one to be appointed each year for a term of three years.

Adopted at the Annual Town Meeting, March 2, 1959. Approved by Attorney General, Edward J. McCormack, Jr., April 1, 1959.

(Building Code Board of Appeals, voted to establish at Annual Town Meeting, March 10, 1975, Article 20.)

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## CHAPTER VI / 6 VACATION RULES AND REGULATIONS

**Section 1.** The vacation year of the Town shall be the period from July 1st to June 30th, inclusive.

**Section 2.** The following annual vacations with pay will be granted to full time employees. Time employed continuously as of July 1st each year. Length of vacation:

6 months to one year	5 days
1 year to 5 years	10 days
5 years to 15 years	15 days
15 years and over	20 days

All full time and part time employees shall be eligible for benefits. Any part time employee who works less than a full work week as in their particular department with a minimum of twenty hours shall receive vacation pro-rated to the number of hours actually worked in a regularly scheduled work week.

- A. Should a holiday fall during a vacation, an additional day of vacation will be allowed.
- B. Vacation will accrue as of July 1st each year, and shall not be cumulative year to year.
- C. Employees terminating their employment with the Town shall receive payment in lieu of any earned vacation not yet taken, on an annual pro-rata basis.

Chapter VI, Section 2, Vacation Rules and Regulations, amended at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

**Section 3.** Heads of the respective departments shall grant vacation leaves at such times as, in their opinions, will cause the least interference with the performance of the regular work of the Town.

**Section 4** Heads of the respective departments shall grant vacation leaves in the vacation year in which they become due, unless, in their opinion, it is impossible or impracticable to do so because of work schedules or emergencies. In no event shall vacation credits be carried over for more than one vacation year.

Adopted at the Special Town Meeting, May 27, 1963. Approved by Attorney General, Edward w. Brooke, June 7, 1963

## CHAPTER VII / 7 INSPECTOR OF GAS PIPING AND GAS APPLIANCES

[Voted to delete in 1978.]

## CHAPTER VIII / 8 FINANCE COMMITTEE

**Section 1.** There shall be a Finance Committee consisting of five legal voters of the Town who shall be appointed by the Moderator as hereinafter provided. No elected or appointed Town employee shall be eligible to serve on said committee.

Adopted at the Special Town Meeting, June 29, 1987. Approved by Attorney General James M. Shannon November 4, 1987.

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**Section 2.** The Moderator of the Town Meeting when this Bylaw is adopted, shall within thirty days after such Bylaw becomes effective appoint two members of two years, and two members for terms of three years. At each Annual Town Meeting thereafter, the Moderator shall appoint two members of said committee for terms of three years. The office of said members shall commence immediately upon qualification and shall expire at the close or final adjournment of the Annual Town Meeting at which their successors are appointed. Said committee shall choose its own officers, shall serve without pay, and shall cause to be kept a true record of its proceedings.

**Section 3.** Whenever any vacancy shall occur in said committee by resignation, removal from Town, death, failing to qualify, or otherwise, said vacancy shall be filled by said committee; and if any member is absent from five consecutive meetings, except in the case of illness, said committee shall consider his position vacant and proceed to fill same. The term of office of all persons chosen, as aforesaid, to fill vacancies shall expire at the close or final adjournment of the Annual Town Meeting. The Moderator thereof shall appoint a successor to fill the unexpired term of each member whose office has been vacated in the same manner as the original appointment.

**Section 4.** The Oakham Finance Committee shall consider any and all municipal questions for the purpose of making reports or recommendations to the Town including a budget, warrant article and referenda and shall have other such powers and duties as are from time to time established by law for such committees.

Adopted at the Annual Town Meeting, March 7, 1966.  
Approved by Attorney General Edward W. Brooke, June 1, 1966.

## **CHAPTER IX / 9      PROTECTIVE BYLAW FOR THE REGULATION OF MOBILE HOMES, TRAILERS, TRAILER PARKS, AND FAMILY TYPE CAMPGROUNDS**

**Section 1.** Definitions:

Trailer or Mobile Home Park: Any premises used for parking three or more trailers or mobile homes for use as year round residences.

Family Type Campgrounds: Any area set aside for incidental camping by tourists in tents or trailers but not occupied as year round residences.

**Section 2.** Use of Trailers: No person shall park, store or occupy a trailer for living or business use, except:

(1) The owner of land may permit occupancy of said land by a non-paying guest, using a single trailer for living purposes, for a period of not exceeding thirty days in any calendar year. A permit must be obtained from the Board of Selectmen, after site approval by the Board of Health, before such land may be so occupied. Such a permit may not be transferred or renewed.

(2) A trailer may be occupied by the owner of land as a temporary dwelling incidental to the construction of a home to be occupied by the owner. The Board of Appeals may grant a permit for such use after holding a public hearing two weeks in advance of the occupancy, and after site approval by the Board of Health. In no case may the trailer be occupied for more than two years during which time the construction of the dwelling is to be completed and the dwelling occupied. Lack of good faith on the part of the owner shall be cause of cancellation of the permit by the Board of Appeals. The permit is not transferable.

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**Section 3.** Mobile Home and Trailer Parks: No mobile home or trailer parks are allowed in any district in Oakham.

**Section 4.** Family Type Campgrounds: All existing family type campgrounds or new additions to the same, as well as any new family type campgrounds, shall meet the minimum standards set for this purpose by the Commonwealth of Massachusetts, Department of Public Health, under the Sanitary Code, Article VIII, adopted by the Massachusetts Department of Public Health on May 14, 1963 in accordance with the provisions of Section 5 of Chapter III of the General laws as amended by Chapter 522 of the Acts of 1959 and by Chapter 172 of the Acts of 1960 in accordance with the procedure required by Chapter 30A of the General Laws and after a public hearing held May 3, 1963. Any new additional areas to any existing campgrounds set aside for a new trailer site must be approved by the Board of Health and the Board of Selectmen. No new family type campgrounds will be permitted without the approval of the Board of Selectmen and Board of Health, and only after a public hearing has been held on each application.

**Section 5.** This bylaw is to become effective immediately on adoption by the Town of Oakham, pending approval by the Attorney General of Massachusetts. No part of the bylaw is intended to affect the present status of any trailer or campgrounds.

**Section 6.** Penalty: A fine not to exceed fifty dollars will be imposed for each violation of this bylaw.

**Section 7.** [This paragraph superseded 4/13/1977 by Chapter XIII - Board of Appeals] Board of Appeals: There is hereby established a Board of Appeals of three members to be appointed by the Selectmen for a term of three years except that the original appointments shall be one of three years, one for two years and one for one year, as provided in Chapter 40A of the General Laws, which shall act on all matters within its jurisdiction under this bylaw. In the manner prescribed in Chapter 40A of the General Laws. This Board of Appeals may also act as the Board of Appeals under any local building, planning or zoning ordinances or bylaws.

Every decision of the Board of Appeals shall be in writing and assented to by at least two members.

Any applicant for a permit or certificate of occupancy whose application has been refused by the Selectmen, or any person dissatisfied with the decision of the Selectmen on any matter left by this bylaw to their approval or discretion, may appeal therefrom to the Board of Appeals within ten days from the date of said refusal or decision. If the refusal or decision of the Selectmen is affirmed, the ruling shall be final. If the action of the Selectmen is modified or annulled, the Selectmen shall issue a permit or decision in accordance with the decision of the Board of Appeals.

Upon petition filed by any person whose application for a permit or certificate of occupancy has been refused by the Selectmen, the Board of Appeals may suspend or vary the application of the provision or where a literal enforcement of the provisions of this bylaw would involve substantial hardship to the applicant and where desirable relief may be nullifying or substantially derogating from the intent or purpose of this bylaw, but not otherwise.

The Board of Appeals shall grant a hearing on each appeal of which all persons interested shall have notice.

Adopted at a Special Town Meeting, Dec. 20, 1966. Approved by Attorney General Elliott L. Richardson, Jan. 17, 1967.

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## CHAPTER X / 10 DOG CONTROL

### Section 1 Definition of Terms

- 1.1 Animal Control Officer: Any person designated by the Board of Selectmen to be responsible for issues relating to animals.
- 1.2 Dangerous dog: Any dog so designated by the Board of Selectmen after a finding that the dog:
  - 1.2.1 Without provocation, killed or inflicted serious bodily injury on a human being or other domestic animal on public or private property; or
  - 1.2.2 Without provocation, bit, attacked or endangered the safety of humans or domestic animals on public or private property subsequent to a finding by the Board of Selectmen of the Town of Oakham or the appropriate governing body of another municipality and notice to the owner that the dog was potentially dangerous; or
  - 1.2.3 Without provocation demonstrated highly aggressive, menacing behavior or acted otherwise in a highly aggressive manner which threatens the safety of humans or domestic animals on public or private property; or
  - 1.2.4 Acted in violation of an order issued by the Board of Selectmen in a previous hearing.
- 1.3 Provided, however, that a dog shall not be deemed a dangerous dog for purposes of this bylaw if:
  - 1.3.1 the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner/keeper of the dog or was otherwise committing or attempting to commit a crime; or
  - 1.3.2 the threat, injury or damage was sustained by a person who was teasing, tormenting, abusing or assaulting the dog or who has in the past been observed or reported to be engaged in such activity; or
  - 1.3.3 the dog is owned by a law enforcement agency or law enforcement officer and such behavior occurred while the dog was engaged in the performance of police work.
- 1.4 Dog: any animal of domestic canine species.
- 1.5 Domestic Animal: any dog, cat, equine, cow, sheep, goat, pig, Alpaca, llama, ferret, rabbit or domestic fowl.
- 1.6 Kennel: a pack or collection of more than three dogs three months of age or older on a single premises, irrespective of the purpose for which they are maintained.
- 1.7 Owner or Keeper: any person(s), firm, corporation, or organization owning, keeping, harboring, or having an interest in or care, custody, or control of one or more dogs.
- 1.8 Public Nuisance: any dog free of restraint and permitted to wander at will on private property other than that belonging to the owner/keeper or another whose express permission has been provided, or on public property or public or private ways except:
  - 1.8.1 if such dog is under the care and control of a responsible person who is competent to prevent the dog from being a threat to public safety or attached to a restraining device no

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longer than 15 feet in length; the mere muzzling of a dog shall not be sufficient to satisfy the requirements of this section; or

- 1.8.2 if such dog is being used as a so-called "working/hunting/sporting dog" and is being supervised as such by a person competent to prevent the dog from being a threat to public safety; provided, however, that this section shall apply only while such dog is being used for sporting/hunting events or trials or training for such purposes.
- 1.9 Potentially dangerous dog: any dog so designated by the ACO and/or the Board of Selectmen after an investigation and determination that the dog:
  - 1.9.1 Without provocation, chased or threatened in a menacing fashion which suggested attack or took other action of a highly aggressive nature against a human being or domestic animal on public or private property; or
  - 1.9.1 Without provocation, attacked or caused minor injury or threatening the safety of a human being or domestic animal on public or private property. "Unprovoked" means that the animal was not hit, kicked or struck by a person with any object or part of a person's body, nor was any part of the animal's body pulled, pinched or squeezed by a person, nor was the animal verbally or physically taunted in any way whether there be physical contact or p.o.t.

## **Section 2 Registration and License**

- 2.1 The owner or keeper of any dog more than six months old shall obtain a dog license from the Town Clerk and keep it securely affixed to the dog with a collar or harness at all times.
- 2.2 The owner or keeper of more than three dogs on a single premises shall obtain from the Town Clerk a kennel license. The following requirements shall at all times apply to a kennel:
  - 2.2.1 the location and operation of the kennel shall be appropriate for housing the number of animals to be maintained and shall not be detrimental to the health and safety of the animals or persons;
  - 2.2.2 the kennel shall be operated in a safe, sanitary and humane manner; and
  - 2.2.3 the kennel shall at all times keep and maintain on its premises accurate records of the identities of all animals kept on the premises and the number of animals on the premises on each day;
- 2.3 Upon receipt of a completed application for a kennel license, the Town Clerk shall notify the ACO who shall forthwith conduct an inspection of the applicant's kennel. Upon receipt of the ACO's report, the Town Clerk shall submit the completed application and such report to the Board of Selectmen for its consideration and review to determine whether the kennel is in compliance with the requirements of this Bylaw.
  - 2.3.3 If the kennel is in compliance, the Board of Selectmen shall authorize the license to be issued. If the kennel is not in compliance, the Board of Selectmen shall not authorize the issuance of the license and shall state in writing the reasons therefor. Under such circumstances, the Town Clerk shall deny the application.
- 2.4 In the event a kennel license application or renewal application is denied, the applicant may file a new kennel license application and request a re-inspection to demonstrate to the ACO that it has

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brought the kennel into compliance with the requirements of this Bylaw. The ACO shall then, as soon as is practicable, re-inspect the kennel and issue a report to the Board of Selectmen, which shall within a reasonable time review the application and take appropriate action thereon.

- 2.5 No license shall be issued without a current rabies certificate for each dog which certificate meets the requirements of G.L. c.140, §145B, or a veterinarian's certificate exempting the dog from this requirement.
- 2.6 License Period shall be from April 1 in any year to the March 31 next following.

## 2.7 Fees and Penalties

Spayed/neutered dog	\$7.00
Non-spayed/non-neutered dog	\$11.00
Kennel- 4 dogs	\$30.00
Kennel - up to 9 dogs	\$60.00
Kennel- 10-20 dogs	\$100.00
Kennel inspection fee	\$____.00
Lost license	\$1.00
Failure to license dog by start of license period (except for a dog which attains the age of six months during said period)	\$25.00
Failure to license dog during license period when dog attains the age of six months	\$25.00
Dog found running at large without attached license	\$10.00

## Section 3 Public Nuisance Prohibited

- 3.1 No owner/keeper of any dog shall permit such dog, whether licensed or unlicensed, to become a public nuisance.
- 3.2 Any dog found to be a public nuisance shall be apprehended by the ACO, and, when appropriate, impounded, as follows:
  - 3.2.1 If the dog is properly licensed, the ACO shall attempt to return the dog to its owner immediately. If the ACO cannot safely return the dog to its owner, the dog will be impounded, and the ACO will notify the owner/keeper by phone or notice left at the residence of the owner/keeper based upon the licensing records maintained by the Town. The dog will remain impounded until the owner seeks return of the dog. The owner/keeper may reclaim the dog upon production of a valid and current rabies certificate, current dog license, and payment of all applicable fees and penalties.

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3.2.2 If the dog is not properly licensed, the ACO shall impound the dog for a period of not longer than 10 days during which the owner may contact the ACO and seek return of the dog. The owner/keeper may reclaim the dog upon production of a valid and current rabies certificate, current dog license, and payment of all applicable fees and penalties. If the owner/keeper does not reclaim the dog prior to the expiration of 10 days, the dog will be disposed of as provided by G.L. c.140, §151.

## 3.3 Fees and Penalties

Dog apprehension fee	\$25.00
Impoundment fee	\$15/day
Surcharge for unlicensed apprehended dog	\$25.00
Surcharge for apprehended dog without current rabies certificate	\$50.00
Dog constituting a public nuisance:	
for the first offense	\$10.00
for the second offense	\$25.00
for third and subsequent offenses	\$50.00

3.4 All fees and penalties collected by the ACO shall be itemized in writing and turned over regularly to the Town Treasurer. The ACO shall receive from the Treasurer payment of \$25.00 per pick-up and \$10.00 per day for impoundment of a dog.

## Section 4 Removal of Dog Waste

4.1 An owner/keeper shall immediately remove any fecal material deposited by a dog under his or her control on any street or way or on public or private property, other than that belonging to the owner/keeper or another whose express permission has been provided.

## 4.2 Fees and Penalties

Failure to remove dog waste:	
for the first offense	\$10.00
for the second offense	\$25.00
for third and subsequent offenses	\$50.00

provided, however, that an owner/keeper committing five or more offenses of Section 4.1 shall be referred to the Board of Selectmen for a hearing pursuant to Section 6.4 of this Bylaw and the provisions of G.L. c.140, §157.

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## **Section 5                    Emergency Treatment of Dogs and Cats Injured on Public Ways**

- 5.1        The ACO shall bring any dog or cat injured on a public way to a registered veterinarian registered under the provisions of G.L. c.112, §§55 and 56A. If the owner of the dog or cat is known, the veterinarian shall receive payment therefrom for emergency care, treatment or disposal of said animal. If the owner is unknown, the Town shall pay such veterinarian a fee of \$25.00 for such emergency care, treatment or disposal. Emergency care, for purposes of this section, shall mean such care as is necessary for the purpose of maintaining life, stabilizing the animal or alleviating suffering until the owner of the animal can be identified or for a period of 24 hours, whichever comes first.

## **Section 6                    Potentially Dangerous or Dangerous Dogs**

- 6.1        No owner/keeper or other person responsible for a dog exhibiting vicious, dangerous or potentially dangerous behavior shall fail to safeguard human beings or other animals from said dog.
- 6.2        For purposes of this bylaw, a dangerous dog shall mean a dog which meets one or more of the four standards set forth in Section 1(B)(I) of this Bylaw and does not fall within one of the exemptions set forth in Section 1 (B)(II), and a "potentially dangerous dog" is a dog which meets one or more of the two standards set forth in Section 1 (H) of this Bylaw.
- 6.3        The ACO shall investigate any claims of unprovoked menacing behavior or attack by a dog on a public way or on public or private property to determine whether a finding is warranted that such dog is a "potentially dangerous dog." If the circumstances support such a finding, the ACO shall determine the same in writing, and notify the owner/keeper by regular and certified mail. An additional incident occurring within a 36 month period from the date of the first incident shall result in a referral to the Board of Selectmen for a determination as to whether the dog is a "dangerous dog." If the ACO believes that the circumstances warrant imposition of conditions on the maintenance of the "potentially dangerous dog," the ACO shall refer the matter to the Board of Selectmen pursuant to the provisions of Section 6(D) of this Bylaw. If the circumstances support a finding that the dog may be a "dangerous dog," including the infliction of injury on a human being or domestic animal, the matter will immediately be referred to the Board of Selectmen.
- 6.4        Upon receipt of a referral from the ACO or written complaint, the Board of Selectmen shall hold a hearing pursuant to the provisions of G.L. c.140, § 157. If, after hearing, the Board determines that a dog is a "potentially dangerous dog" or a "dangerous dog" the Board may so declare and, at its discretion, order an appropriate remedy. Such remedy may include, but not be limited to, one or more of the following:
- 6.4.1     spaying or neutering within a specified period;
  - 6.4.2     use of a muzzle or other restraint system on or off the owner/keeper's premises;
  - 6.4.3     containment of the dog on the owner/keeper's property in a secure fashion, provided, however that a radio-fence alone will not constitute restraint on owner's property;
  - 6.4.4     construction of a secure enclosure to house the dog while on the owners property;
  - 6.4.5     display of a sign indicating that a dangerous dog is on the premises;
  - 6.4.6     enrollment and successful completion of a behavioral modification training course from a qualified instructor;

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- 6.4.7 banishment of the dog from the Town of Oakham;
- 6.4.8 humane euthanization of the dog.
- 6.5 The owner/keeper of a potentially dangerous dog or a dangerous dog must immediately notify the ACO or the Police Department if the dog is loose or unconfined; bites/attacks a human being or domestic animal; is sold, given away, or dies; or is to be or has moved to another address, including provision of the new address.
- 6.6 Penalties: Failure to comply with Section 6 of this Bylaw, including failure to comply with an order issued by the Board of Selectmen pursuant to Section 6(D) and G.L. c.140, § 157.
- |   |          |
|---|----------|
| for the first offense                   | \$150.00 |
| for the second and all further offenses | \$300.00 |

provided, however, that failure to comply with the provisions of Section 6 may also result in a further hearing in accordance with Section 6(D) and G.L. c.140, §157 and the imposition of additional restrictions, up to and including an order to remove the dog from Town or that the dog be humanely euthanized.

## **Section 7                    Enforcement**

- 8.1 The provisions of this Bylaw, and any regulation of the Board of Selectmen adopted hereunder, may be enforced by the ACO or any police officer of the Town of Oakham by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to the provisions of G.L. c. 40, §21D. Each day a violation exists shall constitute a separate violation.

Previous Dog Restraining Bylaw deleted and replaced by Dog Control Bylaw adopted at Annual Town Meeting, June 18, 2008. Approved by Attorney General Thomas F. Reilly, August 18, 2008.

## **CHAPTER XI / 11        RATE OF DEVELOPMENT**

- Section 1.** Areas of land subject to the jurisdiction of the Planning Board under the Subdivision Control Law shall not be developed by the construction of dwelling units at a greater rate than permitted by the following:

Subdivisions containing sufficient area to provide more than eight building lots at the maximum intensity permitted under the Zoning Bylaw shall not be developed by the construction of dwelling units at a greater rate than eight lots per year or twenty percent per year of the total lots shown on an approved Definitive Subdivision Plan or a plan bearing an endorsement that no subdivision approval is required.

Adopted at a Special Town Meeting, April 13, 1977. Approved by Attorney General Francis X. Bellotti, July 5, 1977.

## **CHAPTER XII / 12      UNREGISTERED MOTOR VEHICLES**

- Section 1.** Not more than one unregistered motor vehicle shall be placed upon any land in the Town of Oakham unless the same be within a building or within an area not exposed to public view.

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Any person violating the provisions of this bylaw shall be subject to a fine of fifty dollars for each offense. Each day that a willful violation continues shall constitute a separate offense.

Adopted at a Special Town Meeting, April 13, 1977. Approved by Attorney General Francis X. Bellotti, July 5, 1977.

## CHAPTER XIII / 13 BOARD OF APPEALS

[See also Chapter IX, Section 7.]

**Section 1.** There is hereby established a Board of Appeals of three members to be appointed by the Selectmen for a term of three years each, except that the original members shall be appointed one for a term of one year, one for a term of two years and one for a term of three years and one each year for a term of three years after that as provided in Chapter 40A of the General Laws as amended. The Board of Appeals shall also include two associate members who shall be appointed in the same manner, except that the original appointments shall be one for a term of one year and one for a term of two years and one each year for a term of two years after that. The Chairman of the Board of Appeals may designate any such associate member to sit on the Board in the case of the absence, inability to act or interest on the part of a member thereof, or in the event of a vacancy on said board may designate any such associate member to sit as a member of the Board until such vacancy is filled. This Board of Appeals shall also act as the Board of Appeals under any local building, zoning or other bylaw and the members of this Board may also act as the members of the State Building Board of Appeals if so qualified.

Adopted at a Special Town Meeting, April 13, 1977. Approved by Attorney General Francis X. Bellotti, July 5, 1977.

## CHAPTER XIV / 14 ZONING

### Section 1. General

- 1.1 **Authority:** This Zoning Bylaw is adopted in accordance with the provisions of the Zoning Act (General Laws, Chapter 40A as amended).
- 1.2 **Purpose:** The purpose of this Zoning Bylaw is to regulate the use of land, buildings and structures to the full extent of the independent constitutional powers of cities and towns to protect the health, safety and general welfare of their present and future inhabitants.
- 1.3 **Basis Requirements:** All structures hereinafter erected, reconstructed or moved, or the use of premises in the Town of Oakham, shall conform with the provisions of this bylaw.

### Section 2. Establishment of a District

- 2.1 **Class of a District:** For the purposes of this bylaw, the Town of Oakham is hereby designated as an agricultural and rural residential district.
- 2.2 **Zoning Map:** Said district is located and bounded as shown on a map entitled "Zoning Map of Oakham, Massachusetts" dated March, 1972, on file in the Town Clerk's Office. This zoning map with all explanatory matter thereon is hereby made a part of this bylaw.

# OAKHAM GENERAL BYLAWS

## Section 3. Use Regulations

**3.1 Basic Requirements:** No building, structure or land shall be used for any purpose or in any manner other than as permitted and set forth in Sections 3.2 and 3.3 of the Schedule of Use Regulations of this bylaw and in accordance with the following notations:

Y Use permitted

SP Use allowed as an exception with a Special Permit granted by the Planning Board.  
[See Section VII.7.4]

### 3.2 Agriculture

Y 1. Farms: agriculture, orchard, plant or tree nursery.

Y 2. Farms: livestock.

Y 3. Sales room or stand for the display or sale of agricultural or horticultural products, the major portion of which is grown or produced on the premises by a resident proprietor.

### 3.3 Residential

Y 1. Single family\* detached building.

SP 2. Conversion of a single family\* dwelling existing prior to the adoption of this bylaw to accommodate not more than two families.

Y 3. Cellar hole or basement area used as a dwelling for not more than two years.

Y 4. Two family\* dwellings.

SP 5. Professional office or studio of a resident physician, dentist, attorney, architect, musician, engineer or other member of a recognized profession.

Y 6. Customary home occupation such as preserving or home cooking, repair of portable equipment or appliances, real estate agent, craft manufacturing, giving private music or dance lessons, provided that not more than one other person beyond the immediate family is regularly employed therein in connection with such use and there is no storage of materials or equipment unless the same be within a building or in an area unexposed to public view.

7. The removal of soil in amounts not to exceed five hundred cubic yards shall be permitted when:

Y (a) such removal is needed for the construction which has been granted a building permit.

Y (b) not associated with the construction of a building, if a land owner wishes to remove up to but not exceeding five hundred cubic yards of soil from his / her property to improve the usefulness of the property.

\* Family: one or more persons living together in one dwelling unit but not including sororities, fraternities or other communal arrangements.

Chapter XIV, Zoning, Section III, Use Regulations, 3.3.7 adopted at the Annual Town Meeting, June 26, 1989. Approved by Attorney General, James M. Shannon, October 12, 1989.

Chapter XIV, Zoning, Section III, Use Regulations, 3.3.7 amended at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

Chapter XIV, Zoning, Section III, Use Regulations, 3.3.7(b) amended at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

# OAKHAM GENERAL BYLAWS

## [CHAPTER XIV / 14 ZONING continued]

### Section 4. Regulation of a Business

**4.1 Basic Requirements:** No building, structure or land shall be used for any purpose or in any manner other than as permitted and set forth in Sections 4.2 and 4.3 of the Schedule of Use Regulations of this bylaw and in accordance with the following notations.

Y Use permitted

SP Use allowed as an exception with a Special Permit granted by the Planning Board.  
[See Chapter XIV Section VII.7.4]

**4.2 Commercial:** There will be no storage of materials or equipment unless the same be within a building or in an area unexposed to public view.

SP 1. Retail establishments distributing merchandise to the general public.

SP 2. Craft, consumer or professional establishment dealing with the general public.

SP 3. Animal or veterinary hospital.

SP 4. Automotive filling or service station.

SP 5. Repair garage for motor vehicles.

SP 6. Restaurant providing food and beverage within a building.

SP 7. Drive-in eating establishment.

SP 8. Contracting business and equipment storage yard.

SP 9. Building for the sale or boarding of dogs and / or cats.

SP 10. The raising of swine, fur animals or poultry.

SP 11. The removal of soil in amounts exceeding five hundred cubic yards may be allowed by Special Permit granted by the Planning Board. Fee shall be in accordance with the current Fee Schedule. The Board may engage engineers, planners, attorneys, designers, or other appropriate professionals able to provide the Board with the necessary guidance, and to ensure compliance with all relevant regulations. Such assistance may include, but shall not be limited to, analyzing information and supporting material submitted with an application; monitoring or inspecting a project site for compliance with the Board's decisions and all relevant regulations; and inspecting a project during implementation of the permitted activity.

Chapter XIV / 14, Zoning, Section III, Use Regulations, 4.2.11 amended at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

(a) All permit applications must be accompanied by a timetable of when the operation is proposed to begin and when all soil removal will be completed with topsoil replaced and replanted.

## OAKHAM GENERAL BYLAWS

- (b) Any person who desires approval of a Special Permit for the removal of soil shall file with the Planning Board the following:
1. Two copies of a properly executed Special Permit Application for the Removal of Soil, and any supporting information.
  2. A Proposed Soil Removal Plan printed on mylar transparency sheets, satisfying the form and content requirements set forth below, with eight contact prints thereof.
  3. A complete list of abutters, and abutters to abutters to a distance of three hundred feet from all boundaries of the proposed soil removal site, or lying within three hundred feet of any tract of land of the Applicant, any part of which is adjacent to and/or included in the proposed soil removal site; said list shall be prepared and certified by the Town of Oakham Assessors at the request of the Applicant, for submittal with the Special Permit application.
  4. Filing Fee and Project Review Deposit in conformance with the current Fee Schedule.
  5. A detailed site plan prepared by a Professional Engineer registered in the Commonwealth of Massachusetts, titled "Proposed Soil Removal Plan", which shall contain the following information:
    - i. Suitable space to record the action of the Planning Board, including space for reference to any considerations or limitations of approval, the date, the signatures of the members of the Planning Board, and the Town Clerk's Certification of No Appeal.
    - ii. An area locus plan of the proposed soil removal site drawn to a convenient scale between 1"=800 feet and 1"=200 feet inclusive, to show on one sheet all of the proposed soil removal site, all other adjacent land of the Applicant, and other adjacent properties to the nearest street in every direction. Important ground features such as brooks, public areas, lot lines, easements and streets only need be shown in a general manner and labeled. No dimensions need be given except where of specific importance in evaluating the site. The limits of the proposed soil removal shall be indicated by a heavy line, and existing and proposed features shall be distinguished by different lines, labeling, or other methods.
    - iii. Deed references and the date(s) of acquisition of the property and the name of current or former owners of abutting properties.
    - iv. Frontage and area of any remaining adjoining land owned by the Applicant, not included in the soil removal plan.
    - v. All property boundary lines adjacent to the proposed soil removal site.
    - vi. The Town Assessor's sheet number(s) and parcel number(s) for the property.
    - vii. Locus plan, north point, date, scale, legend, and the title "Proposed Soil Removal Plan".
    - viii. Indication of all easements, covenants or restrictions applying to the land, and their purposes, whether or not within the soil removal parcel.
    - ix. Existing topographic contours and proposed restoration contours shall be shown at two-foot intervals, using dashed lines for existing and solid lines for proposed

# OAKHAM GENERAL BYLAWS

contours. All elevations shall be North American Vertical Datum (NAVD) of 1988, and shall list and, where possible, show the bench marks used and their elevations.

- x. Water table elevations, as established by test pits and test borings. Applicant shall submit a detailed summary of findings for each test pit or test boring, with a key plan indicating their locations on the site.
- xi. Major features of the land such as existing walls, fences, buildings, large trees, wooded areas, rock outcroppings, ditches, waterways, natural drainage courses, bodies of water, and swamps that exist in or adjacent to the site at the time of survey.
- xii. Existing drainage systems within and in the vicinity of the proposed soil removal area, including generally all areas of wetlands or waterways.

Chapter XIV, Zoning, Section III, Use Regulations, 4.2.11(b) amended at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

- (c) In accordance with M.G. L., Chapter 40A Section 9, a public hearing shall be held.
- (d) Special permits for the removal of soil shall be subject to governed by the rules and regulations of the Special Permit Granting Authority relative to the issuance of such permits as adopted and amended in accordance with M.G.L. Chapter 40A Section 9.

Chapter XIV, Zoning, Section IV, Regulation of a Business, 4.2.11 Commercial, adopted at the Annual Town Meeting, June 26, 1989. Approved by Attorney General James M. Shannon, October 12, 1989.

- SP 12. Golf Course, either private or public.

Chapter XIV, Zoning, Section IV, Regulation of a Business, 4.2.12 Commercial, adopted at a Special Town Meeting, March 28, 1990. Approved by Attorney General James M. Shannon, October 5, 1990.

- SP 13. Construction and erection of wireless communication towers, personal wireless service facilities, and their accessory structures in accordance with the provisions of Section 6.4 Wireless Communications Facilities.

Chapter XIV, Zoning, Section IV, Regulation of a Business, 4.2.13, adopted at a Special Town Meeting, November 27, 2000. Approved by Attorney General Thomas F. Reilly March 19, 2001.

## 4.3 Industrial: There will be no storage of materials or equipment unless the same be within a building or an area unexposed to public view.

- SP 1. Wholesale, warehouse and storage facilities, any manufacturing or industrial use including processing, fabrication and assembling, provided that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values by reason of dirt, odor, smoke, gas, sewage, refuse, noise, excessive vibration or danger of explosion or fire.

## [CHAPTER XIV / 14 ZONING continued]

### Section 5. Dimensional Requirements

#### 5.1 Schedule of Dimensional Requirements

Type	Minimum Lot Size	Minimum Width at Street Frontage
Residence	130,680 sq. ft.	300 ft.
Two family, new construction	174,240 sq. ft.	400 ft.
Business	44,000 sq. ft.	150 ft.
Industry	88,000 sq. ft.	250 ft.

# OAKHAM GENERAL BYLAWS

**5.2 Height Limits:** No structure erected in the Town of Oakham shall exceed thirty-five feet in height, calculated from the average grade around the perimeter of the structure.

Exceptions: Church steeples; wireless communication towers, if granted a Special Permit pursuant to Chapter XIV Section 6.4.

Chapter XIV, Section V. Dimensional Requirements, 5.2 Height Limits was amended at a Special Town Meeting on November 27, 2000. Approved by Attorney General Thomas F. Reilly March 19, 2001.

**5.3 Lot Line Regulations:** No structure shall be erected within fifty feet of the sideline of an abutting lot nor fifty feet from the front lot line.

**5.4 Lot Frontage:** Minimum Width at Street Front shall be continuous, and may be on no more than two existing Town roads.

Chapter XIV, Zoning, Section V, Dimensional Requirements, 5.4 added at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

## 5.5 Minimum Buildable Area

For all Lot Types listed in Paragraph 5.1 above, a lot shall not be considered a buildable lot unless a minimum of sixty-five contiguous percent of the minimum stipulated lot area is free of marsh, swamp, bog, certified or non-certified vernal pool, natural or dam-made pond, stream, or other standing, circulating, or flowing water. The basis for area calculation of a dam-made pond shall be the area of the most recent five-year average water and wetland perimeter, not the area of an original stream submerged beneath the dam-made pond.

Minimum Frontage	300'	400'
Minimum Lot Area 174,240 SF (one acre = 43,560 SF)	3 acres / 130,680 SF	4 acres /
Minimum buildable contiguous lot area SF	65% = 84,942 SF	65% = 113,256

Chapter XIV, Zoning, Section V, Dimensional Requirements, 5.5 Minimum Buildable Area, added at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

### 5.5.1 Compliance:

5.5.1.1 ANR lots: For a lot shown on a plan endorsed by the Planning Board as "Approval Not Required" ("ANR"), the Building Inspector shall not issue a building permit unless: (a) the ANR plan is submitted as endorsed by the Planning Board; (b) the endorsed ANR plan bears the certification by a Massachusetts licensed surveyor and/or Massachusetts licensed civil engineer that the lot complies with all applicable zoning requirements, including Minimum Buildable Area; (c) the Building Inspector determines that the lot complies with all applicable zoning requirements, including Minimum Buildable Area; (d) the Building Inspector conducts a site inspection of the lot and determines that access from an existing public way is not illusory in fact; and (e) the Building Inspector conducts a site inspection of the public way and

# OAKHAM GENERAL BYLAWS

determines that the way, in its existing condition, is adequate to provide safe and all-season access to the lot by standard emergency vehicles.

- 5.5.1.2 Definitive Subdivision Plan lots: The Building Inspector shall not issue a building permit unless: (a) the lot plan is submitted as endorsed by the Planning Board; (b) the endorsed plan bears the certification by a Massachusetts licensed surveyor and/or Massachusetts licensed civil engineer that the lot complies with all applicable zoning requirements, including Minimum Buildable Area; (c) the Building Inspector determines that the lot complies with all applicable zoning requirements, including Minimum Buildable Area; (d) the Building Inspector conducts a site inspection of the lot and determines that access from the subdivision way is not illusory in fact; and (e) the Building Inspector conducts a site inspection of the subdivision way and determines that the way, in its existing condition, is adequate to provide safe and all-season access to the lot by standard emergency vehicles.

Chapter XIV, Zoning, Section V, Dimensional Requirements, 5.5.1.1 and 5.5.1.2 added at the Annual Town Meeting, June 20, 2005. Approved by Attorney General Thomas F. Reilly, October 7, 2005.

- 5.5.2 The Minimum Buildable Area provisions shall not apply to lots of record as of the date of adoption of this amendment.

## 5.6 Lot proportions

- 5.6.1 In order to prevent evasion of the intent of bylaw requirements for frontage and area, the following lot configurations shall not be approved as building lots:
- 5.6.1.1 Lots with proportionally thin, finger-like frontage, including "landscape easements", or "turn-arounds".
- 5.6.1.2 Lots with long, narrow ribbon shapes, including "ribbon lots", rat-tail lots, flag lots, hourglass lots, pork-chop lots, hammerhead lots.
- 5.6.2 Lot depth perpendicular to the frontage at any point along the frontage shall not be less than fifty feet.
- 5.6.3 No angle of intersection with the road frontage shall be less than forty-five degrees.
- 5.6.4 No dimension between the required side setbacks shall be less than one hundred feet.
- 5.6.5 Proportion Factor:
- 5.6.5.1 No building permit or certificate of occupancy shall be issued for any new construction on a lot which has a Proportion Factor of less than 0.40. The Proportion Factor shall be determined by the following formula:

$$PF = \frac{16a}{p^2}$$

Proportion Factor = (16 x land area) divided by  
land perimeter in feet, squared

## OAKHAM GENERAL BYLAWS

Example A, conforming to the Proportion Factor:

A rectangular lot three acres in area  $(43,560 \times 3) = 130,680$  SF Area  
 $\times 16 = 2,090,880$  Area

Perimeter  $300'$  frontage  $+ 435.6' + 300' + 435.6'$   
 $= 1,471.2$  feet Perimeter

$1471.2$  feet squared  $= 2,164,429.44$

$2,090,880$  divided by  $2,164,429.44 = 0.966$  (greater than 0.40)

Example B, NOT conforming to the Proportion Factor:

An irregular lot with three acres in area  $(43,560 \times 3) = 130,680$  SF  
Area  
 $\times 16 = 2,090,880$

Perimeter  $306.31'$  around a cul-de-sac  $+ 101.46 + 225.18 + 240.12$   
 $+ 849.82 + 225.74 + 40' + 248.73 + 349.70 + 195.11$   
 $= 2475.86$  feet Perimeter

$2475.86$  squared  $= 6,129,882.74$

$2,090,880$  divided by  $6,129,882.74 = 0.34$  (less than 0.40)

Example C, NOT conforming to the Proportion Factor:

A ribbon lot with three acres in area  $(43,560 \times 3) = 130,680$  SF  
Area  
 $\times 16 = 2,090,880$

Perimeter  $400.22 + 393.43 + 288.09 + 319.12 + 309.13 + 588.52 +$   
 $228.86 + 760.67$   
 $= 3288$  feet Perimeter

$3288$  squared  $= 10,811,207$

$2,090,880$  divided by  $10,811,207 = 0.19$  (less than 0.40)

- 5.6.5.2 That part of the lot in excess of the *required* lot area may be excluded from the Proportion Formula in determining the Proportion Factor. The perimeter containing the excess area shall not include the required frontage.
- 5.6.5.3 Any area of the lot bounded by lot lines which intersect at an angle less than thirty degrees shall be excluded from the area calculation
- 5.6.5.4 The Proportion Formula shall not apply to lots of record as of the date of adoption of this amendment.

Chapter XIV, Zoning, Section V, Dimensional Requirements, 5.6 Lot Proportions, added at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

# OAKHAM GENERAL BYLAWS

## [CHAPTER XIV / 14 ZONING continued]

### 5.7 Retreat Lots

Purpose: To preserve the rural character of the Town, and to enable an alternative to a Definitive Subdivision Plan with three-acre lots and new subdivision roads, a Retreat Lot bylaw offers an incentive for optional subdivision into large lots with frontage on an existing Town road, if a Special Permit is granted by the Planning Board following application and a public hearing.

- 5.7.1 New applications for Retreat Lot designation shall be considered on a case by case basis. Disapproval by the Planning Board, with a written summary of the reasons for disapproval, shall be sufficient basis for denial of the application. Notwithstanding Section 5.6, the Planning Board may allow, by Special Permit, a Retreat Lot satisfying the criteria of Section 5.7.
- 5.7.2 Lot Area and frontage: A Retreat Lot shall have a minimum area of ten acres (435,600 square feet), of which no less than three acres shall be contiguous upland. In order to accommodate placement of a driveway no less than thirty feet from abutting properties, frontage for a proposed Retreat Lot shall not be less than seventy-five feet. Access from the public way to the open area of the lot shall not be less than seventy-five feet in width at any point. Area of the access shall not be included in calculation of the minimum three acres of contiguous upland. No structures shall be erected in the access area.
- 5.7.3 Lot Access: A Retreat Lot shall have direct, unencumbered, adequate actual access from a public way in the Town of Oakham to the single family dwelling located or to be located on the Retreat Lot. The access shall be entirely within the boundary lines of the Retreat Lot, and not subject to any public or private easement.
- 5.7.4 Lot Width: The minimum width of a Retreat Lot shall not be less than seventy-five feet of frontage on an existing Town road; not less than seventy-five feet for the entire length of access into the lot; and not less than three hundred feet at all points beyond the end of access from the public way.
- 5.7.5 A Retreat Lot may have contiguous frontage with any one proposed or approved Retreat Lot.
- 5.7.6 A Retreat Lot may have contiguous frontage with any lot endorsed as Approval Not Required.
- 5.7.7 No lot within or subdivided from an existing or proposed Definitive Subdivision shall be considered for Special Permit as a Retreat Lot.
- 5.7.8 A Retreat Lot shall be clearly annotated on the plan for submittal: "In compliance with the Town of Oakham Bylaws, this entire lot is designated a RETREAT LOT by Planning Board Special Permit, and as such shall not be further divided."
- 5.7.9 The proposed Retreat Lot deed shall also carry a covenant, to run with the land, stating: "In compliance with the Town of Oakham Bylaws, this entire lot is designated a RETREAT LOT by special permit granted by the Planning Board, and as such shall not be further divided."
- 5.7.10 A complete submittal to the Planning Board shall include the following:
  - 5.7.10.1 The deed prepared for the lot, with the Retreat Lot covenant.
  - 5.7.10.2 The plan of the lot with the Retreat Lot notation.

## OAKHAM GENERAL BYLAWS

- 5.7.10.3 An application for Special Permit for Retreat Lot.
- 5.7.10.4 All scheduled fees.
- 5.7.10.5 A complete list of abutters, and abutters to abutters to a distance of three hundred feet from all boundaries of the proposed Retreat Lot, or lying within three hundred feet of any tract of land of the Applicant, any part of which is adjacent to and/or included in the proposed Retreat Lot; said list shall be prepared and certified by the Town of Oakham Assessors at the request of the Applicant, for submittal with the Retreat Lot Special Permit application.
- 5.7.11 Approval of the Special Permit for Retreat Lot shall require a public hearing, followed by a super-majority vote of the Planning Board; endorsement by signatures on the plan; and issuance of the Special Permit.
- 5.7.12 Compliance: No building permit shall be issued by the Building Inspector until the plan with the required Retreat Lot notation, the Special Permit, and the accompanying deed, have been recorded at the Worcester District Registry of Deeds, and a copy of the record indicating the Book and Page numbers of the deed and of the plan, has been received by the Planning Board, and the Planning Board has so notified the Building Inspector.
- 5.7.13 A Retreat Lot application to the Planning Board shall be accompanied by a Retreat Lot survey plan, prepared by a Massachusetts Registered Land Surveyor and / or a Registered Professional Engineer, in form suitable for recording with the Worcester District Registry of Deeds, printed on 24 inch by 36 inch mylar transparency sheets, with eight contact prints thereof.
- 5.7.14 The Retreat Lot Plan submittal shall include:
  - 5.7.14.1 Suitable space to record the action, date and signatures of the Planning Board, including space for reference to any considerations or limitations of approval, and the Town Clerk's certification of no appeal.
  - 5.7.14.2 A locus plan showing the location of the proposed Retreat Lot.
  - 5.7.14.3 Deed references and the date(s) of acquisition of the property and the name of current or former owners of abutting properties.
  - 5.7.14.4 Frontage and area of any remaining adjoining land owned by the Applicant, not included in the Retreat Lot.
  - 5.7.14.5 All existing and proposed property boundary lines.
  - 5.7.14.6 The Town Assessor's sheet number(s) and parcel number(s) for the property.
  - 5.7.14.7 The names of the record owner(s) of the property shown on the Retreat Lot Plan, and the name(s) of the Applicant, if not the owner; and the names, signatures and appropriate seals of the engineer and / or land surveyor who prepared the Retreat Lot Plan, as appropriate.
  - 5.7.14.8 Names and locations of all abutters, as they appear in the most recent tax list.
  - 5.7.14.9 Location, general direction, names and present widths of streets or ways bounding, approaching, or within reasonable proximity of the retreat Lot.

# OAKHAM GENERAL BYLAWS

- 5.7.14.10 All existing structures, septic systems, wells, stone walls, fences.
- 5.7.14.11 Major features of the land such as existing large trees, wooded areas, rock outcroppings, ditches, waterways, natural drainage courses, bodies of water, and swamps that exist in or adjacent to the site at the time of survey.
- 5.7.14.12 Locations of all rights-of-way, easements, covenants or restrictions applying to the land, and their purposes. Locations of all rights-of-way, easements, covenants or restrictions on *abutting* land which are appurtenant to the proposed Retreat Lot.
- 5.7.14.13 Topographic contours of the existing and finish grades of the access way at two foot intervals; topographic contours of the balance of the lot at not more than five foot intervals. Both existing and proposed contours shall be shown on the same drawing, using dashed lines for existing and solid lines for proposed contours.
- 5.7.14.14 Topographic information may be prepared by the applicant's surveyor or civil engineer as an excerpt from a USCGS topographic map, enlarged to a scale sufficient to fill most of a 24 inch by 36 inch page.
- 5.7.14.15 Location, width and center line of any existing or proposed access driveway; necessary drainage facilities; all filling, cutting and grading required for the construction thereof.
- 5.7.14.16 To facilitate access by standard emergency vehicles, the angle of grade change from Retreat Lot driveway to the existing public way shall not be greater than one foot in ten feet; the driveway width shall not be less than fifteen feet; and the rise of a Retreat Lot driveway shall not be greater than one foot in fourteen, except that slopes no greater than one foot in ten may be permitted if paved as directed by the Highway Superintendent.

Chapter XIV, Zoning, Section V, Dimensional Requirements, 5.7 Retreat Lots, added at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

Chapter XIV, Zoning, Section V, Dimensional Requirements, 5.7 Retreat Lots, amended at the Annual Town Meeting, June 20, 2005. Approved by Attorney General Thomas F. Reilly, October 7, 2005.

## [CHAPTER XIV / 14 ZONING continued]

### Section 6. Special Regulations

- 6.1 Off-street Parking:** Suitable off-street parking shall be provided for which will be equal to one space more than the total registered vehicles at each location.
- 6.2 Unregistered Motor Vehicles:** Unregistered motor vehicles unfit for use permanently disabled, dismantled or otherwise inoperative shall not be placed upon any land in the Town of Oakham unless the same be within a building or an area unexposed to the public view.  
[See also Chapter XII. Unregistered Motor Vehicles.]
- 6.3 Removal of Soil:** The removal of soil including but not limited to sand, gravel, loam, clay, stone, or other subsurface materials, except water, in amounts greater than five hundred cubic yards

Chapter XIV, Zoning, Section VI, Special Regulations, 6.3 Removal of Soil amended from fifteen hundred cubic yards to five hundred cubic yards, at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

## OAKHAM GENERAL BYLAWS

shall be in accordance with the following conditions, as well as any other conditions that the Planning Board may set forth to ensure public safety and the general welfare of the Town.

- 6.3.1. Prior to any activity related to the removal of soil, including site preparation, a performance bond shall be posted by the applicant. The amount of the bond shall be determined by the Planning Board and shall be based on the estimated cost of restoration of the site.
- 6.3.2. There shall remain on the site enough topsoil so that a minimum of six inches can be replaced over all the excavated areas except driveways. If less than six inches of topsoil previously existed, that same amount shall be replaced.
- 6.3.3. There shall be no excavation below existing grade, within two hundred feet of any public roadway or within two hundred feet of an abutting property line, unless special consideration is granted by written permission of an abutter and super-majority vote of the Planning Board. Excepting only haul road access to the soil removal work area, all of the perimeter buffer shall be left in its existing natural condition until reclamation of the site has been completed. No trees or other vegetation shall be removed from the perimeter buffer, nor shall any earth, rock, or other materials be stockpiled thereon.
  - 6.3.3.1 Visual barrier: As an alternative to leaving the perimeter buffer in its natural condition, the applicant may propose a setback of one-half the required depth, provided that a continuous visual barrier is constructed by the applicant and approved by the Planning Board. Such barrier may consist of opaque fencing, capable of lasting for the duration of the gravel mining operation; other durable opaque materials; evergreen plant materials, densely placed; bermed topsoil from the site, free of stumps and debris, and seeded with a conservation mix approved by the Planning Board; a combination of any of the above. If approved by the Planning Board, no gravel removal shall commence until the visual barrier is in place and has been approved by the Planning Board.
- 6.3.4. Unless otherwise granted by the Planning Board, hours of operation shall be limited to 7:00 A.M. to 5:00 P.M. Monday through Friday, and 7:00 A.M. to 12:00 noon on Saturdays. There shall be no operation of trucks or equipment on Sundays or holidays.
- 6.3.5. Upon completion of excavation all debris such as stumps and boulders shall be removed from the site and disposed of. If disposal is to be made within the Town limits, such site shall be acceptable to the Planning Board, before disposal is allowed. No area shall be left excavated so as to cause accumulation of free standing water.
- 6.3.6. Upon replacement of topsoil, all excavated areas, except driveways, shall be seeded with perennial conservation seed mix and reseeded as needed to guarantee re-establishment of vegetation.
- 6.3.7. All restored areas shall be graded to allow surface water to run off without causing erosion, and the land shall be left so that natural storm drainage shall leave the property at the original, natural points and the natural flow shall not be increased. Finish grade shall not exceed two feet horizontal to one foot vertical (two-to-one) slope, except in sensitive areas where it is necessary for the control of soil erosion it shall be no greater than four-to-one grade, unless special consideration is granted.
- 6.3.8. Restoration shall be carried on simultaneously with excavation so that when any three acre area of operation has been excavated, at least two acres shall be restored before

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work commences on the next contiguous three acres including building haul roads on the next area. Final restoration work shall be completed within sixty days of expiration of the special permit or upon cessation of operations.

- 6.3.9. All permits for removal of soil shall be subject to renewal after one year. Should the permit holder fail to meet the requirements set forth in the special permit issued to them, or after one year does not renew the permit and has not completed the restoration of the site, the bond shall be forfeited to the Town and applied toward such restoration.
- 6.3.10. No excavation or site activity shall take place within one hundred feet of a water course or wetlands without prior approval of the Conservation Commission.
- 6.3.11. No permanent shelters or buildings shall be erected on the property while it is subject to soil removal operations and until the entire site has been satisfactorily restored.
- 6.3.12. All access roads leading to public ways shall be treated with water, stone or other suitable material to reduce dust for a distance of two hundred feet back from said way. All access roads shall be sloped away from the public way to control mud and spillage. All access ways shall be curved or at an angle to the public way to help screen the operation from public view if possible.
- 6.3.13. No excavation shall be left less than six feet above the elevation of the average annual high water table, as established by test pits or borings. Such elevation shall be indicated by a concrete or stone marker. A minimum of one ground water monitoring well per acre shall be placed where directed by the town's consultant engineer, and shall be maintained until the worked area has been restored.
- 6.3.14. No excavation shall be left below four feet above the high water elevation of the one hundred year flood contour, as established by the town's consultant engineer, when located within a flood plain district.
- 6.3.15. All special permits for soil removal shall be subject to the recommendations and approval of the Chief of Police and Highway Superintendent regarding trucking and transportation routes.

Chapter XIV, Zoning, Section VI, Special Regulations, 6.3 Removal of Soil, Paragraphs 1 through 15 adopted at the Annual Town Meeting, June 26, 1989. Approved by Attorney General, James M. Shannon, Oct. 12, 1989.

Chapter XIV, Zoning, Section VI, Special Regulations, 6.3 Removal of Soil, amended at the Annual Town Meeting, June 20, 2005. Approved by Attorney General Thomas F. Reilly, October 7, 2005.

### **6.4 Wireless Communication Facilities**

#### **A. Definitions**

1. **Personal Wireless Service Facility:** Any Facility for the provision of personal wireless communication service, including an antenna, dish, tower, and related equipment.
2. **Personal Wireless Services:** All forms of wireless communication included in this definition in the Federal Telecommunications Act of 1996, including, but not limited to, commercial mobile radio services, unlicensed wireless services, common carrier wireless exchange services, and other forms of communication of a similar nature. Common carrier wireless exchange services include, but are not limited to, cellular telephone services; wireless computer

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networking; wireless Internet access; and wireless communication services of a similar nature.

3. **Wireless Communication:** A form of communication by a signal sent through the air which does not use wires for transmission, including, but not limited to, radio, television, and personal wireless services.
4. **Wireless Communication Antenna:** An antenna installed for the primary purpose of transmitting and receiving wireless communication signals, including all surfaces from which wireless communications are sent or received.
5. **Wireless Communication Tower:** A structure designed and erected for the primary purpose of supporting wireless communication antennas.

**B. The following uses require a Special Permit from the Planning Board:**

1. Construction and erection of wireless communication towers, personal wireless service facilities, and their accessory structures in accordance with the provisions of this Section.
2. Installation of a commercial wireless communication antenna on the exterior of an existing building.
3. Installation of a wireless communication antenna on an existing wireless communication tower which increases the height of the tower by more than twenty feet, provided that the applicant demonstrates that it is necessary for the provision of wireless communication services.

**C. Exemptions: The following are exempted from the provisions of this Section:**

1. Town of Oakham communication services, including police, fire, ambulance, and public works.
2. Television and radio antennas, including satellite dish antennas, intended solely for private, non-commercial use.
3. Amateur radio towers used in accordance with the terms of an amateur radio service license issued by the FCC; and provided that the tower is not used or licensed for any commercial purpose.

**D. Procedures:**

1. Erection of all wireless communication towers, personal wireless service facilities, and their accessory structures shall require a Special Permit from the Planning Board.

**E. Filing Requirements: Applications for Special Permits are made under this Section shall include the following information in addition to the information required for Special Permits under Chapter XVI, Sections IV and VI of this Zoning bylaw.**

1. Names, addresses and telephone numbers of applicant and all co-applicants, as well as any agents for the applicant or co-applicants.
  - a. Co-applicants may include the landowner of the subject property, licensed carriers, and tenants of the wireless service facility.
  - b. Either an applicant or a co-applicant shall be a licensed telecommunications carrier.

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- c. If neither applicant nor co-applicant is a licensed telecommunications carrier, **no building permit shall be issued until supplementary information is filed to include a licensed telecommunications carrier as co-applicant.**
  - d. **Prior to issuance of a building permit**, applicant shall submit copies of the FCC license, any filings with the FAA and any other federal or state licenses required.
  - e. **Prior to issuance of a building permit**, applicant shall comply with bond requirements of this bylaw.
2. A map showing the anticipated range of coverage for all proposed wireless service facilities, and the location and range of any existing wireless communications tower within the Town of Oakham, and within two miles of the site for which the application is filed, in order to indicate where gaps in coverage exist.
3. A map showing the farthest point within a two mile radius from which the tower will be visible.
4. A site plan prepared by a registered professional engineer, at a scale of one inch equals forty feet, showing the following:
  - a. location of the proposed wireless communication tower, personal wireless service facilities, and their accessory structures;
  - b. the tax map number and parcel number of the subject property;
  - c. height above grade of any tower and supporting structure;
  - d. topography with contours at two-foot intervals;
  - e. proposed access drives and their construction;
  - f. all areas proposed to be paved;
  - g. all fencing;
  - h. the outline of all existing buildings on the subject property and all adjacent properties within three hundred feet of all boundaries of the subject property, including their purpose (for example, residence, garage, barn, out-building);
  - i. all residential structures within five hundred feet of the proposed facility, with distances at grade from the residential structures to the base of the proposed tower.
5. Applicant shall submit sight line graphs and photographic superimpositions showing the appearance of the tower at completion from at least three of the nearest residential structures, including the three that are closest or most significantly impacted.
6. Applicants shall submit manufacturer's specifications for the proposed tower describing the technical reasons for the proposed height, design and capacity for co-location, including the number and type of antennas it can accommodate. Information shall be submitted showing representation, dimensioned and to scale, of any tower, antenna, mount, accessory structure, fence, cable and other appurtenances, and indicating the number, location, dimensions, materials of construction, and colors of these facilities.

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7. Review by Consultants: The Planning Board may hire at the applicant's expense such qualified professionals as the Planning Board deems necessary for the review of an application for wireless communication towers, personal wireless service facilities, and their accessory structures.
  - a. Costs: The applicant shall deposit with the Town a sum of money sufficient to cover all costs associated with this review. The monies deposited with the Town shall be subject to MGL Chapter 44, Section 53G.
8. Public Hearing: The Planning Board shall hold a Public Hearing relative to the Special Permit application, in accordance with provisions of Sections 9 and 11 of Chapter 40A of Massachusetts General Laws.
9. Height Demonstration: Within two weeks prior to the Public Hearing, the Planning Board shall require the applicant to float a balloon at the specific location and elevation of a proposed wireless communication tower, to demonstrate its proposed height. The balloon shall be of a size, type and color visible for a distance of not less than a two mile radius. The duration of the height demonstration shall be not less than all daylight hours of three consecutive days, including Saturday and Sunday. The time and dates on which this height demonstration is to be performed, and a bad-weather alternate three-day period, shall be advertised in the Worcester Telegram for three consecutive days, beginning at least one week prior to the date of the test.
  - a. Costs: Applicant shall be responsible for all costs of all required advertising.
10. Term of Special Permit: A Special Permit issued for any wireless communication towers, personal wireless service facilities, and their accessory structures shall be valid for ten years unless otherwise indicated by the Planning Board. At the end of the specified time, the Special Permit may be renewed by the Planning Board for an additional ten-year term, subject to submittal by the owner-operator of active and valid use.
  - a. Lapse of Special Permit: If such documentation is not submitted, the Special Permit shall lapse, and a new Special Permit shall be required, or the Planning Board may require removal of all facilities by the owner-operator.
  - b. Lapse of Special Permit: In the event that substantial use of the wireless communication towers, personal wireless service facilities, and their accessory structures has not commenced with two years of issuance of a Special Permit, the Special Permit shall lapse as provided in Section 9 of Chapter 40A of the Massachusetts General Laws.

### F. Performance Standards

1. Wireless communication towers shall be of a monopole construction. No lattice towers shall be erected in the Town of Oakham.
2. Co-location: All wireless communication towers shall be designed to hold facilities for a minimum of three licensed telecommunications carriers.
3. No wireless communication tower shall exceed a maximum of one hundred and ninety feet in vertical height above the existing grade. Applicant shall submit complete documentation supporting a request for the specific height required.

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4. The Planning Board may require a wireless communication tower to be set back from the property lines of the lot on which it is to be located, to protect abutting properties or traffic on adjoining roads, if necessary for public safety. This setback not exceed the vertical height of the tower and any attachments, plus five feet.
5. Setbacks
  - a. No wireless communication tower shall be erected within a minimum of five hundred feet of any residential dwelling. Greater setback may be required by the Planning Board, on a case-by-case basis.
  - b. No wireless communication tower shall be erected within two hundred feet of a public way.
  - c. No wireless communication tower shall be erected within two hundred feet of overhead electrical, telephone, or cable TV wires, except for wires on the property enclosed by the facility.
6. Wireless communication towers, personal wireless service facilities, and their accessory structures shall not be located in wetlands, wetlands buffer areas, or other sensitive natural areas which are subject to the jurisdiction of the Conservation Commission under the Massachusetts Wetlands Protection Act, unless the Planning Board and the Conservation Commission make a joint finding that such a location is in the best interest of the Town. All proposals shall be subject to the review of the Conservation Commission under state and local regulations.
7. It is strongly recommended that applicants construct no more than one above-ground accessory structure in connection with the construction of a wireless communication tower. The structure should be large enough to house all the equipment of all the telecommunications carriers who may co-locate on the tower, or be capable of expansion to house their equipment. Such accessory structures shall meet the following standards:
  - a. No accessory structure shall exceed twelve feet in height at the ridge line of the roof.
  - b. Exterior access shall be provided to each carrier's bay.
  - c. Within each accessory structure, a generator or generators shall be provided capable of future expansion to provide sufficient power to operate the equipment of all carriers at this location in the event of an electrical power failure. No generator shall be located outside of an accessory structure. The applicant shall make every effort to mitigate the intake and exhaust noises of all generators.
  - d. All accessory structures located within public view shall be screened from view shall be screened from view with landscaping.
8. Lighting: Night lighting of towers shall be prohibited except as specifically required by the Federal Aviation Administration. Site lighting shall be limited to that required for emergencies.
9. Fencing: For safety purposes, unauthorized access to the tower shall be secured by a perimeter chain link fence eight feet high, topped with barbed wire on angled extensions. Fencing may also enclose accessory structures. Razor wire shall not be used.
10. Signs: There shall be no signs other than the following:

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- a. Required: A sign at the base of the tower giving the phone number where the owner-operator can be reached on a twenty-four hour basis.
  - b. Optional: No Trespassing signs.
11. Bond: Prior to issuance of a building permit, the applicant shall post an initial bond payable to the Town of Oakham to cover removal of the facility in the event of abandonment, and an annual maintenance bond to cover maintenance of the access road. An access road may include an existing Town road not designed for heavy traffic. The amount of surety for each bond shall be subject to the approval of a consultant hired by the Town: an engineer, architect, or other qualified professional registered to practice in the Commonwealth of Massachusetts. The amount of surety for the annual maintenance bond shall be reviewed and adjusted by the Planning Board every five years, based on review of the estimate by a licensed engineering consultant.
  12. Closure: The applicant and the owner-operator and subsequent owner-operators shall, prior to the first day of June of each subsequent year following the erection of a wireless communication tower, deliver a signed affidavit to the Town Clerk and the Building Commissioner indicating that each facility supported by the tower is still in operation. If the Town has not received an affidavit for any facility by the first day of June, the facility shall be deemed to be no longer in use.
  13. Abandonment: All wireless communication towers, personal wireless service facilities, and their accessory structures not in use for a period of one calendar year expense, following notification to the owner-operator by registered mail. Following removal of these facilities, the site shall be restored to its condition prior to construction, to the greatest extent possible. If the wireless communication tower and other facilities are not removed within ninety days of mortification of the owner-operator, the Town shall remove the tower and restore the site at the expense of the owner-operator. The annual maintenance bond shall cover the cost of the removal and may be used by the Town for this purpose. In the event that the amount of surety is insufficient to cover the costs of removal, the Town may place a lien upon the property to cover the difference in cost.

### G. Wireless Communication Towers Existing at Time of Application

1. Reconstruction or Replacement of Existing Wireless communication towers, personal wireless service facilities, and their accessory structures which were in existence at the time of the adoption of this section may be altered, extended or replaced on the same site, by Special Permit, in accordance with applicable provisions of this section.
2. A wireless communication antenna may be installed on an existing wireless communication tower provided there is no more than a twenty-foot increase in the height of the tower above the existing ground level at the base of the tower, and provided that the total height of the tower shall not exceed one hundred ninety feet.
3. A wireless communication antenna may be installed on an existing wireless communication tower so as to increase the height of the tower by more than twenty feet above the existing ground level, by Special Permit, in accordance with applicable provisions of this section, on condition that the applicant demonstrates that the additional height is necessary for the provision of wireless communications, and provided that the total height of the tower shall not exceed one hundred ninety feet.

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## H. Wireless Communication Antennas on Existing Structures

1. Enclosed Commercial Wireless Communication Antennas: The installation of a wireless communication antenna within an existing structure shall be permitted provided that such antennas are totally enclosed by the structure and cannot be seen from outside the structure.
  2. Commercial Wireless Communication Antennas on Existing Buildings: A wireless communication antenna may be installed on the exterior of an existing building, provided that a Special Permit is obtained from the Planning Board, and that the installation meets the following provisions:
    - a. The applicant shall demonstrate to the Planning Board that the existing building is structurally sound and capable of handling the additional loads created by the antenna.
    - b. The antenna shall not extend above the roofline of the structure unless it is located directly next to a chimney or other project, in which case it shall not exceed the height of the chimney or other projection, and shall not project more than eighteen inches from the surface of the building, roof or chimney; and in no event shall any part of the antenna extend more than twelve feet above the roof line.
    - c. All commercial antennas mounted on a structure shall be colored or painted to blend with the structure.
    - d. All commercial antennas shall be screened from view to the greatest extent possible, to minimize visibility from abutting properties and ways.
    - e. All commercial antennas and appurtenant equipment not in use for a period of six months or more shall be removed from the building at the expense of the owner-operator.
- I. Severability: If an section of this bylaw is ruled invalid, such ruling will not affect the validity of the remainder of the bylaw.

Adopted unanimously Oakham Special Town Meeting, November 27, 2000. Approved by Attorney General Thomas F. Reilly, March 19, 2001.

## [CHAPTER XIV / 14 ZONING continued]

### 6.5 Non-conforming Uses

- 6.5.1. Abandonment: An active conforming land use which is rendered non-conforming by the passage of a new zoning bylaw or bylaw amendment shall be allowed to continue as "pre-existing nonconforming use", until such non-conforming use ceases to be actively exercised for a continuous period of two years, at which point the "pre-existing nonconforming use" status shall lapse and shall not be reactivated. The most current zoning bylaw shall apply. It shall be the responsibility of the land owner and applicant to demonstrate to the satisfaction of the Board of Appeals that the use has not lapsed.
- 6.5.2. Exception: Agricultural use.
- 6.5.3. No reversion: Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.
- 6.5.4. Land use extension or alteration: A nonconforming land use shall not be expanded or altered.

# OAKHAM GENERAL BYLAWS

- 6.5.5 Dwelling alteration: As provided in MGL Chapter 40A, Section 6, a nonconforming single or two-family dwelling may be altered, reconstructed or extended by variance granted by the Zoning Board of Appeals, provided that the Board of Appeals finds that doing so does not increase the nonconforming nature of such structure.

Chapter XIV, Zoning, Section VI, Special Requirements, 6.5.5 Dwelling Alteration, amended at the Annual Town Meeting, June 10, 2005. Approved by Attorney General Thomas F. Reilly, October 7, 2005.

- 6.5.6 Other structure alteration: Other pre-existing nonconforming structures may be altered, extended, or changed in use by zoning variance from the Zoning Board of Appeals, provided that the proposed change of use shall conform with the following conditions:

6.5.6.1 In granting a zoning variance, the Zoning Board of Appeals may impose any additional restrictions or conditions on the change, extension or alteration of structure to ensure that the use shall be no more detrimental or offensive to the neighborhood than the existing use or structure.

6.5.6.2 Extension: No nonconforming accessory use of a portion of a structure, nor any conforming accessory use of a portion of a nonconforming structure, shall be extended to more than forty percent of the floor area of the existing structure.

6.5.6.3 Unsafe structure: Any structure deemed to be unsafe may be restored to a safe condition, provided such work on any nonconforming structure shall not place it in greater nonconformity; and provided that, if the cost to restore any structure shall exceed fifty percent of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.

Chapter XIV, Zoning, Section VI, Special Requirements, 6.5 added at the Annual Town Meeting, June 17, 2002. Approved by Attorney General Thomas F. Reilly, September 16, 2002.

6.5.6.4 Exception: If a nonconforming single or two-family dwelling is damaged or destroyed by fire or other disaster, such dwelling may be rebuilt or restored and used again as previously, without requiring a variance to be granted by the Zoning Board of Appeals, provided that the rebuilding or restoration is completed within three years after occurrence of the damage, and that the dwelling as rebuilt shall not exceed the original footprint and projections, nor shall it be greater in volume or floor space than the original structure.

Chapter XIV, Zoning, Section VI, Special Requirements, 6.5.6.4 added at the Annual Town Meeting, June 10, 2005. Approved by Attorney General Thomas F. Reilly, October 7, 2005.

Chapter XIV, Zoning, Section VI, Special Regulations, 6.5.6.4 Exception, added at the Annual Town Meeting, June 20, 2005. Approved by Attorney General Thomas F. Reilly, October 7, 2005.

## [CHAPTER XIV / 14 ZONING continued]

### Section 7. Administration

- 7.1 **Enforcement:** This bylaw shall be enforced by the Zoning Enforcement Officer appointed by and under authority of the Board of Selectmen.
- 7.2 **Issuance of Building or Use Certificates:** The Building Inspector may issue a building or use permit when it is determined the application complies with all local and state laws or codes.
- 7.3 **Certificate of Occupancy:** No land shall be occupied or used and no building or structure hereinafter erected or structurally altered shall be occupied or used unless a certificate of

# OAKHAM GENERAL BYLAWS

occupancy has been issued by the Building Inspector. Such certificate shall state that the structure and use of structure and land comply in every respect with the provisions of this bylaw in effect at the time of issuance. A certificate of occupancy shall be conditional on the maintenance of full compliance with the provisions of this bylaw in effect at the time of issuance or with restrictions imposed in a decision of the Planning Board or the Board of Appeals and shall lapse if such compliance fails.

**7.4 Special Permits:** Applications for Special Permits will be considered by the Planning Board.

A public hearing will be held on each application within sixty-five days after filing of application. Abutters will be notified in writing. A notice of the hearing will be posted in three public places and printed in at least one recognized newspaper in each of two successive weeks, the first publication and posting to be not less than fourteen days before the day of the hearing.

The Planning Board will render its decision within ninety days of the public hearing and will so inform the Zoning Enforcement Officer and the applicant.

The applicant for Special Permit shall be responsible for all costs involved in processing the application.

**7.5 Board of Appeals:** The Board of Selectmen shall appoint a Board of Appeals established pursuant to Chapter 40A amended.

[See also Chapter XIII. Board of Appeals, and Chapter IX, Section 7.]

**7.6 Appeals:** Appeal of the decision of the Planning Board must be filed within thirty days of the Planning Board decision. The Board of Appeals will hold a public hearing within sixty-five days of the filing date. The Board of Appeals will render its decision within seventy-five days and so inform the Zoning Enforcement Officer so he may take proper action.

**7.7 Penalty:** Any person violating any provision of this bylaw shall not invalidate any other section or provision.

**7.8 Validity:** The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision. The equivalent provisions of the Town of Oakham's original Zoning Bylaw, especially regarding house lot size and frontage are deemed not to be repealed if the amended provisions do not receive the Attorney General's approval.

**7.9 Other Regulations:** This bylaw shall not interfere with or annul any other Town bylaw, rule or regulation.

**7.10 Effective Date:** The effective date of this bylaw shall be the date upon which it is voted according to the provisions of the amended Chapter 40A.

Adopted at a Special Town Meeting, April 5, 1977. Approved by Attorney General Francis X. Bellotti, July 12, 1977

## [CHAPTER XIV / 14 ZONING continued]

### Section 8. Flood Plain District Regulations

**8.1 Flood Plain District:** The Flood Plain District is herein established as overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in the flood plains. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Oakham Flood Insurance Rate Maps (FIRM), and the Flood Boundary and Floodway Maps, dated April 4, 1983 on file with the Town Clerk, Planning Board

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and Conservation Commission. These maps as well as the accompanying Oakham Flood Insurance Study are incorporated herein by reference.

**8.2 Provisions:** In the Floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:

8.2.1 All encroachments, including fill, new construction, substantial improvement to existing structures, and other development are prohibited unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that such encroachment shall not result in any increases in flood levels during the occurrence of the 100 year flood.

8.2.2 Any encroachment meeting the above standard shall comply with the flood plain requirement of the Massachusetts State Building Code.

**8.3 Subdivision Standards for the Flood Plain District:** All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Flood Plain District established under the Zoning Bylaw it shall be reviewed to ensure that:

8.3.1 The proposal is designed consistent with the need to minimize flood damage, and

8.3.2 all public utilities and facilities, such as sewer, gas, electric and water systems shall be located and constructed to minimize or eliminate flood damage, and

8.3.3 adequate drainage systems shall be provided to reduce exposure to flood hazards, and

8.3.4 base flood elevation (the level of the 100-year flood) data shall be provided for proposals greater than 50 lots or 5 acres, whichever is the lesser, for that portion within the Flood Plain District.

**8.4 Health Regulations Pertaining to the Flood Plain District:** The Board of Health shall require that:

8.4.1 New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system; and

8.4.2 New and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

**8.5 Flood Plain District Regulations (Development Regulations)**

8.5.1 Within Zone A, A1-30, all mobile homes shall provide that:

8.5.1.1 Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level, and

8.5.1.2 adequate surface drainage and access for a hailer are provided, and

8.5.1.3 in the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten feet apart, and reinforcement is provided for piers more than six feet above ground level.

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- 8.5.2 The placement of mobile homes, except in an existing mobile home park or mobile home subdivision, are prohibited in the floodway.

Adopted at Annual Town Meeting, April 9, 1984 by unanimous vote. Approved by Attorney General May 9, 1984.

## CHAPTER XV / 15 CONSUMPTION OF INTOXICATING BEVERAGES

**Section 1.** Whoever shall, within the limits of any public way located within the Town, whether that public way be a Town way, county highway, state highway, or a private way open to the public, consume intoxicating beverages, or has in possession an open container thereof, shall be punished by a fine not exceeding fifty dollars. This section shall also be construed so as to prohibit the following: The consumption of intoxicating beverages or possession of an open container thereof, by any person while standing, sitting, walking or otherwise present within such public way or who is within any vehicle, whether parked or moving, which is within the limits of such public way.

**Section 2.** Whoever shall consume any intoxicating beverages, or has in possession an open container thereof, in any public building, or on any public property, including parks, cemeteries, school house, school grounds, and public squares, or in any private way or parking area regulated under the provisions of M.G.L.A. Chapter 90, Section 18, shall be punished by a fine not exceeding fifty dollars.

**Section 3.** The foregoing Sections (1) and (2) shall not apply to any activity duly licensed by the Board of Selectmen under the applicable provisions of Massachusetts General Laws.

**Section 4.** Any person who consumes intoxicating beverages, or has in possession an open container thereof, as prohibited by Sections (1) and (2), shall be subject to arrest, without a warrant, by a Sheriff, Deputy Sheriff, Town Police Officer, or State Police Officer.

Adopted at a Special Town Meeting, Jan. 5, 1984 by a unanimous vote. Approved by the Attorney General March 5, 1984.

## CHAPTER XVI / 16 DRIVEWAY / ROAD CONNECTION

**Section 1.** No person may build or construct any connection between any private driveway in the Town of Oakham and any public road in the Town without first obtaining a permit from the Board of Selectmen.

Adopted at the Special Town Meeting, June 27, 1980. Approved by Attorney General Francis X. Bellotti Nov. 4, 1980.

## CHAPTER XVII / 17 FLOOD PLAIN DISTRICT

Whereas, the Town of Oakham wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 (b) of the Federal Insurance Administration regulation.

Now, therefore, the following measures shall be required within Zone A of the Flood Hazard Boundary Map issued by the Federal Insurance Administration for this community.

**Section 1.** Permit requirements: No person shall erect, construct, enlarge, alter, repair, improve, move or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person for each change.

## OAKHAM GENERAL BYLAWS

No man-made change to improve or unimproved real estate without first obtaining a separate permit for each mobile home from the designated responsible person.

- Section 2.** Application: To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. the form must be completed and submitted to the designated responsible person (with a fee of \$20.00) before the issuance of a permit will be considered.
- Section 3.** Review of applications: The Conservation Commission, hereinafter referred to as the responsible person, is appointed as the "person" responsible for receiving applications and examining the plans and specifications for the proposed construction or development. After reviewing the application, the responsible person shall require any additional measures which are necessary to meet the minimum requirements of development.
- Section 4.** The responsible person shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State Law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- Section 5.** The responsible person shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall: (I) be designed (or modified) and adequately anchor to prevent flotation, collapse, or lateral movement of the structure, (II) be constructed with materials and utility equipment resistant to flood damage and (III) be constructed by methods and practices that minimize the flood damage.
- Section 6.** The responsible person shall review subdivision proposals and other proposed land development to determine whether such proposals will be reasonably safe from flooding. If a subdivision or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that (I) all such proposals are consistent with the need to minimize flood damage within the flood prone area, (II) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (III) adequate drainage is provided to reduce exposure to flood hazards.
- Section 7.** The responsible person shall require within flood prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the system.
- Section 8.** The responsible person shall require within flood prone areas (I) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and (II) onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
- Section 9.** The responsible person shall require that all subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data.

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- Section 10.** The responsible person shall obtain, and reasonably utilize any base flood elevation data available from a Federal, State, or other source, until such other data has been provided by the Administrator, as criteria for requiring that (I) all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level and (II) all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or flood-proofed to or above the base flood level.
- Section 11.** For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on a community's FHBM, the responsible person shall (I) obtain, or require the applicant to furnish, the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structure contain a basement, (II) obtain, or require the applicant to furnish, if the structure has been flood-proofed, the elevation (in relation to mean sea level to which the structure was flood-proofed, and (III) maintain a record of all which information.
- Section 12.** The responsible person shall notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or location of a watercourse, and submit copies of such notifications to the Federal Insurance Administration.
- Section 13.** The responsible person shall ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- Section 14.** The responsible person shall require that all mobile homes to be placed within Zone A on the community's Flood Hazard Boundary Map shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that (I) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side. (II) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side. (III) All components of the anchoring systems be capable of carrying all force of 4,800 pounds. (IV) Any additional to the mobile home be similarly anchored.
- Section 15.** The Flood Hazard Boundary Map issued by the Federal Insurance Administration for this community dated August 20, 1976, and any officially published revisions to this may, is adopted as the official map for the enforcement of this document. Zone A on this map delineates the area within which the requirements of this document will be enforced.
- Section 16.** Definitions: Unless specifically defined below, words and phrases used in this document shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this document its most reasonable application.
- "Base Flood" means that flood having a one percent chance of being equaled or exceeded in any given year.
- "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, fillings, grading, paving, excavation or drilling operations.

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"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Plain" or "Flood Prone Area" means any land area susceptible to being inundated by water from any source ( see definition of "flood").

"Flood-proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Habitable Floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not habitable floor".

"Mobile Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The term includes but is not limited to, the definition of "mobile home" as set forth in regulations governing the Mobile Home Safety and Construction Standards Program (24 CFR 3282.7 (a)).

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Structure" means for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home.

"Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alternation of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief by a community from the terms of a flood plain management regulation.

The public hearing to discuss this matter was held at 7:30 P.M. September 1, 1983 at Oakham Town Hall, Coldbrook Rd. A copy of the map was made available for inspection in the Town Clerk's Office.

It was voted to amend the Town's Zoning Bylaws by adding Chapter XIV ZONING, Section 8 - Flood Plain District Regulations).

Adopted at Annual Town Meeting, April 9, 1984 by unanimous vote. Approved by Attorney General May 9, 1984.

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## CHAPTER XVIII / 18 RESIDENCE NUMBERING

- 18.1 The Board of Selectmen or their designee(s) shall enforce the provision of this section.
- 18.2 It shall be the responsibility of every owner or occupant of each dwelling, apartment building, condominium, or building within the Town of Oakham to place thereon the number of said dwelling, apartment building, condominium, or building as designated by the Board of Assessors.
- 18.3 The size, color, location and visibility of said numbers shall be as follows:
- 18.3.1 The minimum height of said numbers shall be three inches.
- 18.3.2 In order to be visible from the road, street or way, the numbers shall be reasonably visible to persons or vehicles approaching from either direction upon said road, street or way.
- 18.3.3 If the dwelling, apartment building, or building is distant from the road, street, or way so that the numbers are not clearly visible and identifiable from the road, street, or way, then the numbers shall be affixed to a post, mailbox, or other appropriate place at the entrance of the driveway leading to the dwelling, apartment building, condominium, or building.
- 18.4 Each new dwelling, apartment building, condominium, or building shall be identified in accordance with this section before a Certificate of Use and Occupancy is issued therefor.

Adopted unanimously at Annual Town Meeting, June 12, 2000. Approved by Assistant Attorney General Robert W. Ritchie, September 8, 2000.

## CHAPTER XIX / 19 AGRICULTURAL COMMISSION

- 19.1 The Board of Selectmen shall establish a citizen's committee to be called the Agricultural Commission. Said Commission to be comprised of eight members of the agricultural community appointed by the Board of Selectmen, five full time and three alternates, serving three year terms each. Said Commission shall serve as facilitators for encouraging the pursuit of agriculture in Oakham, represent agricultural issues and interests, promote agricultural-based economic opportunities, and protect and preserve farmland in the Town.
- 19.2 Mission: Preserve, protect, revitalize and sustain the Oakham Agricultural Industry and its lands; encourage the pursuit of agriculture, promote agricultural-based economic opportunities and protect and preserve farmland in the Town.

Adopted unanimously at Annual Town Meeting, June 21, 2006. Approved by Attorney General Thomas F. Reilly, July 31, 2006.

## CHAPTER XX / 20 FARMING PRESERVATION

- 20.1 Legislative Purpose and Intent
- 20.1.1 The purpose and intent of this bylaw is to state with emphasis the protection of the right to farm accorded to all citizens of the Commonwealth under Article 97 of the Massachusetts Constitution, and all state statutes and regulations thereunder.
- 20.1.2 This zoning bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farming and farmlands within the Town of Oakham. The entire Town of Oakham is designated in the Town of Oakham Bylaws, Chapter XIV Section 2.1, as an agricultural and rural residential district.

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## 20.2 Definitions

20.2.1 The word "farm" shall have the same meaning as "agriculture", in the Town of Oakham Bylaws, Chapter XIV Section 3.2, and as defined in MGL Chapter 128, Section 1A.

## 20.3 Right To Farm Declaration

20.3.1 The Right to Farm is hereby recognized to exist within the Town of Oakham, as stated in Town of Oakham Bylaws, Chapter XIV Zoning.

20.3.2 The benefits and protections of this bylaw are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices.

## 20.4 Disclosure Notification

20.4.1 Within thirty days after this bylaw becomes effective, the Board of Selectmen shall prominently post in the lobby of the Town Hall, and publish in each annual Town Report, the following disclosure:

It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include operations that cause noise, dust and odors. Buyers or occupants are also informed that the location of properties within the Town may be impacted by farming as addressed in Town of Oakham Bylaws, Chapter XIV Zoning, and State Laws.

## 20.5 Resolution of Disputes

20.5.1 Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Zoning Enforcement Officer, who is empowered to act on the complaint as elsewhere provided by law. The Zoning Enforcement Officer shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Zoning Enforcement Officer.

## 20.6 Severability Clause

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

Adopted unanimously at Annual Town Meeting, June 18, 2008. Approved by Attorney General Thomas F. Reilly, August 26, 2008.

## **CHAPTER XXI / 21 NON-CRIMINAL DISPOSITION**

21.1 Any bylaw of the Town of Oakham, or any rule or regulation of any Town board, officer, commission, or committee may be enforced by any available means in law or equity, including but

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not limited to enforcement by non-criminal disposition pursuant to the provisions of M.G.L. Chapter 40, Section 21D. Each day a violation exists shall constitute a separate violation.

21.2 For purposes of this Section, "enforcing person" shall mean the Board of Selectmen or any Police Office of the Town of Oakham with respect to any violation, the Conservation Agent, Board of Health Agent, Dog Officer, Sealer of Weights and Measures, or Zoning Enforcement Officer, and such other officials as may be designated by the Board of Selectmen, by-law or regulation, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

21.3 When enforced through non-criminal disposition, unless otherwise specifically provided for by bylaw, rule or regulation, the penalties shall be as follows:

21.3.1 First violation: Warning

21.3.2 Second violation: \$75.00

21.3.3 Third and subsequent violations: \$150.00

Adopted unanimously at Annual Town Meeting, June 18, 2008. Approved by Attorney General Thomas F. Reilly, August 18, 2008.

### **CHAPTER XXII / 22 SNOW PLOWING**

22.1 No person other than an employee in the service of the Commonwealth of Massachusetts or the Town of Oakham, or an employee in the service of an independent contractor acting for the Commonwealth or the Town, shall pile, push or plow snow or ice onto any public way, sidewalk or crosswalk so as to impede the flow of pedestrian or vehicular traffic on such way, sidewalk or crosswalk. Whoever violates this Section shall be punished by a fine of not more than one hundred dollars.

Adopted unanimously at Annual Town Meeting, June 18, 2008. Approved by Attorney General Thomas F. Reilly, August 18, 2008.