TOWN OF HEATH

MASSACHUSETTS



General Bylaws

Effective: May 09, 2026

General Bylaws
For the
Town of Heath, Massachusetts
Effective: May 6,2023

Table of Contents

Page

Section 1: Conduct of Town Elections 1
- 1.1 Date of Annual Town Meeting 1
- 1.2 Preparation & Posting of Town Election Warrant 1
- 1.3 Hours of Town Election 1
- 1.4 Qualified Voters 1

Section 2: Conduct of Town Meetings 1
- 2.1 Date of a Town Meeting 1
- 2.2 Preparation & Posting of a Town Meeting Warrant 1
- 2.3 Hours of a Town Meeting 1
- 2.4 Qualified Voters 1
- 2.5 Quorum 1
- 2.6 Method of Voting 1
- 2.7 Limitations of Speakers 2
- 2.8 Annual Town Reports 2

Section 3: Elected Town Officials, Boards and Committees 2
- 3.1 Officials Elected at the Annual Town Election 2
- 3.2 Officials Elected at the Annual Town Meeting 2
- 3.3 Time of Taking Office 2
- 3.4 Vacancies 2
- 3.5 Restriction of Serving Simultaneously 3

Section 4: Appointed Town Officials, Boards and Committees 3
- 4.1 Personnel Regulations for Appointed Positions 3
- 4.2 Select Board Appointments 3
- 4.3 Moderator Appointments 4
- 4.4 Library Trustees Appointments 4

Section 5: General Business 4
- 5.1 Position Duties 4
- 5.2 Official Emblem 5
- 5.3 Goals and Objectives 5
- 5.4 Permitting 5

Section 6: Town Ways and Properties 5
- 6.1 Town Ways 5
- 6.2 Authorized & Prohibited Activity Along Town Ways 6

Section 7: Town Licensing, Fees and Taxation 7
- 7.1 Licensing 7
- 7.2 Town Fees 7
- 7.3 Revolving Funds 8

Section 8: General Regulations Regarding Town Living 9
- 8.1 Refuse Disposal 9
- 8.2 Property Identification 9

8.3 Non-Criminal Disposition 10
8.4 Domestic Violence-Free Zone 10
8.5 Unregistered Motor Vehicles 10
Section 9: Animal Welfare 11
9.1 Dog 11
9.2 Rabies Control 15
9.3 Cats 15
9.4 Livestock 15
9.5 Pets in Municipal Buildings 16
9.6 Humane Treatment 16
9.7 Fees, Enforcement, Violations and Penalties 17
9.8 Administration 18
Section 10: Agricultural Rights and Provisions 18
10.1 Right to Farm 18
Section 11: Rules for Cemeteries of the Town 19
11.1 Purpose and Scope 19
11.2 Definitions 20
11.3 General Rules 20
11.4 Lots and Lot Owners 21
11.5 Care of Lots 22
11.6 Correction of Errors 22
11.7 Descent of Titles 22
11.8 Interments 22
11.9 Plants and Shrubs 23
11.10 Miscellaneous 23
11.11 Enforcement of Rules 24
Section 12: Stretch Energy Code 24
12.1 Definitions 24
12.2 Purpose 24
12.3 Applicability 24
12.4 Stretch Code 24

General Bylaws for the Town of Heath, Massachusetts

Dates given in parentheses indicate original date of bylaw passage or ammendment by Town Meeting.

Section 1: Conduct of Town Elections

1.1 Date of the Annual Town Election: The Annual Town Election is to be the Friday before the Annual Town Meeting, effective in May 1987. (May 5, 1986)

1.2 Preparation and Posting of the Town Election Warrant: The warrant for the Annual Town Election and any Special Town Election will be prepared by either the Select Board or the Town Clerk and posted by the Constables at least seven calendar days prior to the election date. Posting of all elections in the Town shall be done at Sawyer Hall and at the Jacobs Road Municipal Center, with posting on the Town website, if possible. (amended May 11, 2019; May 6, 2023)

1.3 Hours of Town Elections: Polls for any election held for the purpose of conducting town business, whether that be an election of town officials and/or voting on questions by ballot, shall open at 12:00 noon and close at 7:00 p.m.

1.4 Qualified Voters: Persons qualified to vote in any town election shall meet the guidelines of M.G.L. Ch 51, § 1 which states that a voter must be a citizen eighteen years of age or older and a resident of the town or city where he claims the right to vote at the time he registers.

Section 2: Conduct of Town Meetings

2.1 Date of a Town Meeting:

2.1.1 The date of the Annual Town Meeting is to be the first Saturday following the first Monday in May, effective in May 1987. (May 5, 1986)

2.1.2 A date for any Special Town Meeting shall be set by the Select Board, who shall prepare a warrant in accordance with M.G.L. Ch 39, § 10, at least fourteen days prior to the date of said meeting.

2.2 Preparation and Posting of the Town Meeting warrant:
The warrant for any Town Meeting shall be prepared by the Select Board, in accordance with M.G.L. Ch 39, § 10. The warrant shall state the date, time and place of the meeting, as well as all of the articles to be considered. The warrant shall be signed by a majority of the members of the Select Board and posted by the Constables at least seven days prior to the date set for the Annual Town Meeting and at least fourteen days prior to the date set for a Special Town Meeting. Posting of all town meetings in the Town shall be done at Sawyer Hall and at the Jacobs Road Municipal Center, with posting on the Town website, if possible. (amended May 11, 2019, May 6, 2023)

2.3 Hours of a Town Meeting:

2.3.1 The Annual Town Meeting shall be called to order at 9:00 a.m. or as soon thereafter as a quorum is present.

2.3.2 The time for the calling of any Special Town Meeting shall be set by the Select Board, who shall give public notification by warrant.

2.3.3 Any Town Meeting shall end when all articles have been acted upon. Any Town Meeting may be adjourned to a future time and place as the Select Board may designate.

2.4 Qualified Voters:

Persons qualified to vote in any town election shall meet the guidelines of M.G.L. Ch 51, § 1, which states that a voter must be a citizen eighteen years of age or older and a resident of the town or city where he claims the right to vote at the time he registers.

2.5 Quorum:

2.5.1 A quorum for Annual Town Meeting Session(s) shall be at least 40 (forty) registered voters, present and voting, or 10 percent of the registered voters as of January 1st of that year, whichever is greater.

2.5.2 A quorum for any Special Town Meeting Session(s) shall be at least 20 (twenty) registered voters, present and voting, or 5 percent of the registered voters as of January 1st of that year, whichever is greater. (May 9, 1992)

2.6 Method of Voting:

2.6.1 All votes shall be taken by a voice vote first, then a show of hands if the voice vote is close. Nothing in this section shall be construed to prevent the taking of a vote by paper ballot at the discretion of the Moderator. When a question is determined by a paper ballot every person voting shall deposit the ballot in the receptacle provided.

2.6.2 The Moderator may take all votes requiring a two-thirds majority in the same manner in which he or she conducts the taking of a vote when a majority is required, unless the vote is immediately challenged by two or more registered voters. (May 5, 2001, amended June 28, 2003)

2.7 Limitation on Speakers:

No person shall address the meeting unless recognized by the Moderator, nor speak more than once on the same subject to the exclusion of any other who may desire to speak unless they are asked to respond to a question by the Moderator. Speakers are allowed a reasonable time to speak as determined by the Moderator, and may be asked to relinquish the floor if the Moderator deems their speech is either too long or not directly related to the motion on the floor. All comments and questions shall be directed to the Moderator. The Moderator shall determine who will respond to the question or comment.

2.8 Annual Town Reports:

Annual Town Reports shall be made available to the registered voters at least seven days before the date of the Annual Town Meeting. Included shall be reports of the Tax Collector, Treasurer, Accountant, Assessors, Finance Committee, Town Clerk, Planning Board, Select Board, School District Reports, and the reports of such other Town Boards, Committees, Officers and Departments as may be directed by the Select Board in accordance with M.G.L. Ch 40 § 49, as amended.

Section 3: Elected Town Officials, Boards and Committees

3.1 Elected Offices:

At the Annual Town Elections, the Town shall elect one or more members of the following:

3.1.1 A Finance Committee of five members for overlapping three-year terms (Oct. 23, 1990);

3.1.2 A Planning Board of five members for overlapping five-year terms (Feb. 3, 1969);

3.1.3 A Town Clerk for a term of three years (Feb. 4, 1963);

3.1.4 A Select Board of three members for overlapping three year terms. Such Select Board shall have all the powers and duties of a Select Board for purposes of any and all federal, state and local laws referring to Select Board or Selectboard, including but not limited to the Massachusetts General Laws, Code of Massachusetts Regulations and any bylaws and special acts applicable to the Town of Heath. (amended May 11,2019)

3.1.5 A Board of Assessors of three members for overlapping three year terms;

3.1.6 A Board of Library Trustees of three members for overlapping three year terms;

3.1.7 A School Committee of two members for overlapping three year terms;

3.1.8 Two Constables, both for overlapping three year terms; (amended May 2,2017)

3.1.9 A Moderator for a term of three years;

3.2 At the Annual Town Meeting, the Town shall elect, each for one year terms, one or more members of the following:

3.2.1 Fence Viewers consisting of three members;

3.2.2 A Tree Warden;

3.2.3 Measurers of Wood & Bark consisting of two members;

3.2.4 Field Drivers consisting of four members;

3.2.5 A Sexton

3.3 Time of Taking Office:

The terms of office for elected officials shall commence immediately upon qualification and taking the oath of office. The terms shall expire at the close of the Annual Town Meeting following their successors' election and oath of office.

3.4 Vacancies:

Elections to fill vacancies shall be for the remainder of the unexpired term.

3.5 No one individual may be elected or simultaneously serve as a member of both the Select Board and the Finance Committee. (May 1, 1978, amended May 9, 2015)

Section 4: Appointed Town Officials, Boards and Committees

4.1 Personnel Regulations for Appointed Positions

4.1.1 The Selectboard has the authority to establish terms and conditions for those employees that it appoints subject to appropriation and statutory delegation of hiring authority to another board/official.

4.1.2 The Selectboard has the authority to establish, implement and periodically revised a Job Classification and Compensation System to ensure uniformity of treatment among employees. Such a system is not applicable to school personnel or elected positions.

4.1.3 The Selectboard has authority to adopt personnel policies for all town departments except the school and library.

4.1.4 The Selectboard has authority to remove any appointed position for which they are the appointing authority.

4.1.5 Town owned properties are under the care, custody and control of the Selectboard unless this responsibility is delegated to another town committee.

4.1.6 The Selectboard has authority to appoint to fill a term of a vacant elected position until such position is filled at a town election.

4.2 The Select Board shall appoint and notify the following annually unless otherwise specified:

4.2.1 Individual Offices:

- Town Coordinator
- Office Assistant
- Treasurer
- Tax Collector
- Americans with Disabilities (ADA) Representative
- Animal Inspector
- Building Maintenance Coordinator
- Carl H. Nilman Scholarship Representative
- Chief of Police
- Police Officers
- Detail Officers
- Animal Control Officers (regional and local)
- Emergency Management Director
- Emergency Management Director, Alternate
- E911 Coordinator
- FRCOG Planning Board Representative
- FRCOG Planning Board Representative, Alternate
- FRCOG Regional Dog Kennel Representative
- FRCOG Regional Dog Kennel Representative, Alternate
- Three-Town Landfill Committee Representative
- FCCIP Representative
- Fire Chief
- Forest Fire Warden
- FRCOG Representative
- FRTA Representative
- Franklin County Solid Waste District Representative

- Highway Superintendent
- Highway Laborers
- Inspector of Buildings
- Inspector, Electrical
- Inspector, Plumbing & Gas
- Post Office Manager
- Assistant to the Post Office Manager
- Election Workers
- Senior Center Coordinator
- Tax Title Attorney
- Town Counsel
- Town Nurse
- Veterans Agent
- Veterans Graves Officer
- Veterans Representative
- Fred G. Wells Trustee

4.2.2 Town Boards, Committees and Commissions

- Agricultural Commission, five members
- Board of Health, five members, overlapping terms of three years each (May 11, 1990, by ballot)
- Cemetery Commission, three members (May 7, 1993, by ballot)
- Community Hall Committee, five members
- Conservation Commission, according to provisions of M.G.L. Ch. 40, § 8c, five members, terms of three years each (Jan. 6, 1986)
- Council on Aging, five members
- Cultural Council, six members
- Heath Veterans' Memorial Committee, five members
- Historical Commission under the provisions of M.G.L. Ch. 40, §. 8d, three to seven members, terms of three years each (Nov. 3, 1975)
- Local Emergency Planning Committee
- Parks and Recreation Commission, three members
- Recycling Committee, four members
- Zoning Board of Appeals, five members, overlapping terms of five years each

4.3 The Moderator shall appoint and notify the following annually unless otherwise specified:

- Franklin County Technical School Representative

4.4 The Library Trustees shall appoint and notify the following annually unless otherwise specified:

- Library Director
- Assistant Library Director

Section 5: General Business

5.1 Position Duties

5.1.1 The Select Board are to meet at least once a month to consider all municipal management questions, receive bills and draft orders for the same.

5.1.2 The Treasurer shall not cash an order that does not have two or more Selectboard signatures on it. (March 19, 1898, rev. May 9, 2015)

5.1.3 The Finance Committee shall consider all finance-related municipal questions for the purpose of making reports or recommendations to the town, and shall, with the Select Board, prepare Annual Budgets and other Financial Reports in accordance with Ch. 39, § 16. (Oct. 23, 1990, rev. May 9, 2015)

5.1.4 Fire Chief and Fire Department Regulations as described in MGL Ch. 48, Ss. 42, 43.

5.1.4.1 The fire department shall be under the control of an officer to be known as the chief of the fire department. The chief shall be appointed by the Select Board, and shall receive such salary as the Select Board may from time to time determine, not exceeding in the aggregate the amount annually appropriated therefor. He may be removed for cause by the Select Board at any time after a hearing. He shall have charge of extinguishing fires in the town and the protection of life and property in case of fire. He shall purchase subject to the approval of the Select Board and keep in repair all property and apparatus used for and by the fire department. He shall have and exercise all the powers and discharge all duties conferred or imposed by statute upon engineers in towns except as herein provided, and shall appoint a deputy chief and such officers and firemen as he may think necessary, and may remove the same at any time for cause and after a hearing. He shall have full and absolute authority in the administration of the department, shall make all rules and regulations for its operation, shall report to the Select Board from time to time as they may require, and shall annually report to the town the condition of the department with his recommendations thereon; he shall fix the compensation of the permanent and call members of the fire department subject to the approval of the Select Board. In the expenditure of money the chief shall be subject to such further limitations as the town may from time to time prescribe.

5.1.4.2 The chief of a fire department shall act as forest warden and shall have authority to appoint deputy wardens.

5.1.5 The Tax Collector shall pay all fees received by him/her by virtue of his/her office into the town treasury; and, all other officers who receive fees by virtue of their office shall report the amount thereof from time to time to the Selectboard who shall publish them in the annual report.

5.2 Official Emblem

The official emblem of the Town of Heath is the design which appears on the cover of the 1980 Town Report, on some of the Town vehicles, and on the cover of the General By-Laws. (May 3, 1982, amended May 9, 2015)

5.3 Goals and Objectives

The Town has endorsed and will be guided by the Vision, Goals and Objectives, and Action Plan as developed by the Visioning Committee and recommends that Town Boards and Committees pursue actions consistent with those Goals and Objectives. Further, the Town has endorsed that, as public funding becomes available, the Planning Board will continue to pursue completion of a Master Town Plan. (May 8, 1999)

5.4 Permitting

Special permits may be issued for certain activities necessary in connection with scientific research, development, or related production, provided the granting authority finds the activities do not substantially derogate from the public good. (May 7, 1979)

Section 6: Town Ways and Properties

6.1 Town Ways

6.1.1 All Town roadways are established as being three rods in width. (March 7, 1796)

6.1.2 All Town Ways in the Town of Heath are discontinued except those Public Ways or Statutory Private Ways on the following list: (amended May 6, 2017)

1. A.L. Stetson Road: from West Branch Road to the end of the road, 0.55mi.
2. Avery Brook Road: from the Main Street and Taylor Brook Road intersection south to the Charlemont town line, 2.35 mi.
3. Bassett Road: from the South Road and Schoolhouse Road intersection to the Charlemont town line, 1.1 mi.
4. Bellor Road: from Sadoga Road to the end of the road, 0.28 mi.
5. Branch Hill Road: from Colrain Stage Road to Route 8A, 1.6 mi.
6. Bray Road: from East Main Street to Colrain Stage Road, 0.65 mi.
7. Brunelle Road: from its southern intersection with Route 8A to its northern intersection with Route 8A, 1.35 mi.
8. Burrington Road: from South Road to the intersection with Avery Brook Road at the Charlemont town line, 1.9 mi.
9. Colrain Stage Road: from Ledges Road to the Colrain town line, 2.25 mi.
10. Dell Road: from the West Main Street and Long Hill Road intersection to Route 8A, 1.1 mi.
11. East Main Street: from the Avery Brook Road and Taylor Brook Road intersection to the Ledges Road and South Road intersection, 0.3 mi.

12. Flagg Hill Road: from the Taylor Brook Road and Swamp Road intersection to the Charlemont town line, 1.9 mi.
13. Flagg Hill Road Branch: from Flagg Hill Road to the end of the road, 0.7 mi.
14. Groll Road: from Number Nine Road to the Rowe town line, 0.25 mi.
15. Hosmer Road East: from the Colrain Stage Road and Swamp Road intersection to Hosmer Road West, 1.9 mi.
16. Hosmer Road West: from Colrain Stage Road immediately east of Heath Fair Grounds to Hosmer Road East, 1.36 mi.
17. Jacobs Road: from its southwestern intersection with Route 8A to its northeastern intersection with Route 8A, 0.7 mi.
18. Judd Road: from Route 8A to the Charlemont town line, 0.6 mi.
19. Knott Road: from Rowe Road to the end of the road, 0.45 mi.
20. Ledges Road: from West Main Street to Colrain Stage Road, 0.42 mi.
21. Long Hill Road: from the West Main Street and Dell Road intersection to Route 8A, 1.3 mi.
22. Maple Lane: from Brunelle Road to Route 8A, 0.1 mi.
23. Number Nine Road: from Route 8A to the Vermont state line, 2.9 mi.
24. Route 8A: from the Charlemont town line to the Vermont state line, 6.8 mi.
25. Rowe Road: from Route 8A to the Rowe town line, 1.2 mi.
26. Royer Road: from Dell Road to South Road, 1.12 mi.
27. Sadoga Road: from Route 8Ato the Vermont state line, 1.95 mi.
28. Saunders Road: from Dell Road, 0.1 mi.
29. Schoolhouse Road: from Burrington Road to the Bassett Road and South Road intersection, 0.4 mi.
30. South Road: from the East Main Street, West Main Street and Ledges Road intersection to the Charlemont town line, 2.5 mi.
31. State Farm Road: from Route 8A to the Colrain town line, 1.6 mi.
32. Stone Hill Road: from Number Nine Road to the Rowe town line, 0.2 mi.
33. Sumner Stetson Road: from Route 8A to the Vermont state line, 2.36 mi.
34. Swamp Road: from the Taylor Brook Road and Flagg Hill Road intersection to the Colrain Stage Road and Hosmer Road East intersection, 0.5 mi.
35. Taylor Brook Road: from the East Main Street and Avery Brook Road intersection to the Colrain town line, 2.2 mi.
36. Town Farm Road: from South Road to the end of the road, 0.45 mi.
37. Underwood Hill Road: from Sadoga Road to Sumner Stetson Road, 0.85 mi.
38. Vincent Road: from Judd Road ~~to Wheeler Road,~~ 0.25 mi. (Statutory Private Way) (May 11, 2024)
39. West Branch Road: from Route 8A to the Colrain town line, 1.9 mi.
40. West Main Street: from the Ledges Road and South Road intersection to the Dell Road and Long Hill Road intersection, 0.5 mi.

6.2 Authorized and Prohibited Activity Along Town Ways

6.2.1 ~~Unless duly licensed by state authority, no person without a written license from the Select Board shall use the highways of the Town or any place to which the public shall have the right of access, for the sale of any article, except farm, garden, meat, fish, dairy, poultry and baking products or other articles expressly authorized by law.~~ (Feb. 4, 1946, revoked May 9, 2015)

6.2.2 ~~Persons shall not stand or be near each other in the highway or other place to which the public shall have the right of access in such a manner as to obstruct the free passage of other persons.~~ (Feb. 4, 1946, revoked May 9, 2015)

6.2.3 ~~It shall be the duty of any constable or other officer to order any person violating the provisions of Nos. 1 and 2, above, to move on and if said order is not obeyed, to arrest the person so offending~~. (Feb. 4, 1946, revoked May 9, 2015)

6.2.4 ~~Whoever shall offend against or fail to comply with any of the provisions of Nos. 1, 2, and 3, above, shall, unless other penalty is provided by law, for each and every offense forfeit and pay a penalty of not more than twenty dollars.~~ (Feb. 4, 1946, revoked May 9, 2015)

6.2.5 ~~Permitting of curbside cuts/new driveway entrances shall be regulated in accordance with the "Provisions for New Driveway Entrances" as developed by the Select Board and the Heath Highway Superintendent and approved by the Select Board on April 19, 1988~~. (May 7, 1988, revoked Apr. 29, 1989)

Section 7: Town Licensing, Fees and Taxation

7.1 Licensing

7.1.1 License Denial or Suspension

A. The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

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

C. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permits and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

D. The Select Board may waive such denial, suspension or revocation if it finds that there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his/her immediate family, as defined in M.G.L. Ch. 268, §1 in the business or activity conducted in or on said property. This section shall not apply to the following licenses and permits: open burning, M.G.L. Ch. 48, § 13; bicycles permits, M.G.L. Ch. 85, § 11A; sales of articles of charitable purposes, M.G.L. Ch. 101, § 33; children work permits, M.G.L. Ch.149, § 69; clubs, associations, dispensing goods or beverage licenses, M.G.L. Ch. 140, § 21E; dog licenses, M.G.L. Ch.140, § 137; fishing, hunting, or trapping licenses, M.G.L. Ch. 131, § 12; marriage licenses, M.G.L. Ch.140, § 189. [M.G.L. Ch. 40, § 57] (May 9, 1998, June 28, 2003)

7.2 Town Fees

7.2.1 For a complete list of fees for Heath Boards, Committees, Offices and services, see Appendix B.

7.2.2 Community Hall Fees

A. The Community Hall may be used free of charge by Town Organizations with the approval of the Hall Committee. (March 3, 1975)

B. For fees pertaining to private use of the Community Hall, see Appendix B.

C. An application for use of the Community Hall may be obtained from the Town Coordinator's office or may be found on the Town of Heath website.

7.2.3 Tax Collection

Pursuant to M.G.L. Ch. 59, §§ 59 & 57c, the Town will implement quarterly tax billing effective July 1, 2002. (May 5, 2001)

7.3 Revolving Funds (established May 6, 2017)

7.3.1 There are hereby established in the Town of Heath pursuant to the provisions of G.L. c.44, §53E½, the following Revolving Funds, from which the specified department head, board, committee, or officer may incur liabilities against and spend monies from without appropriation in accordance with the limitations set forth in this by-law.

7.3.2 Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.

7.3.3 No liability shall be incurred in excess of the available balance of the fund.

7.3.4 The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting or any increase therein as may later be authorized by the Select Board and Finance Committee in accordance with G.L. c.44, §53E½.

7.3.5 Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the General Fund.

7.3.6 Authorized Revolving Funds (Amended July 11, 2020; May 6, 2023, May 9, 2026)

REVOLVING FUND PROGRAM OR PURPOSE	**DEPARTMENT RECEIPTS TO BE CREDITED TO FUND**	**REPRESENTATIVE OR BOARD ENTITY AUTHORIZED TO SPEND**
Hearings Revolving Fund - Costs associated with hearings	Application Fees for Hearings	Conservation Comm., Planning Board, ZBA, or BOS
Animal Control Revolving Fund - Animal Control Costs and Expenses	Receipts and Fines in connection with animal control	Animal Control Officer, Town Clerk, or Select Board
Board of Health Revolving Fund - Costs associated with inspections and to aid clean-up	BOH inspections and permits	Board of Health or Select Board
Council on Aging Meals Revolving Fund - Costs associated with preparation of senior meals	Receipts from donations, or senior meals	Council on Aging Chair or Select Board
Board of Health Vaccine Program Revolving Fund - Vaccine services, and expenditures	Vaccine services, and expenditures	Board of Health, Town Nurse, or Select Board
Recycling Program Revolving Fund - Operation of Town's solid waste and recycling programs, membership in and services of FC Solid Waste Mgmt. District	Receipts related to the Town's recycling Program	Select Board
Senior Center Revolving Fund - Costs associated with normal operations of	Receipts received from donations or generated by	Select Board or Senior Center Coordinator

the Senior Center	Senior Center activities	
Treasurer Tax Taking Revolving Fund costs associated with tax taking	Payments related to tax taking	Treasurer or Select Board

7.3.7 Procedures and Reports. Except as provided in General Laws Chapter 44, §53E½ and this by-law, all applicable state and local laws and regulations that govern the receipt, custody, expenditure and payment of town funds shall apply to the use of revolving funds established and authorized by this by-law.

And further, fiscal year spending limits for such funds shall be established annually by vote of Twon Meeting. (Amended July 11, 2020; May 6, 2023, May 9, 2026)

Section 8: General Regulations Regarding Town Living

8.1 Refuse Disposal

8.1.1 In order to implement a program of recycling in conjunction with ordinary waste disposal, residents of every household shall separate waste material into the following categories before disposal: 1. Glass and cans; 2. Paper; 3. Other waste. (May 7, 1988)

8.1.2 The Select Board is authorized to enter into an agreement to join the Franklin County Solid Waste Management District effective July 1, 2001. (May 5, 2001)

8.2 Property Identification

8.2.1 Street numbers shall be attached to each dwelling, business, industry, and other buildings which are not accessory in nature in the Town of Heath.

8.2.2 The number shall be made of permanent, weatherproof materials, shall be at least 3" in height in a contrasting color, and shall be clearly visible from the public way upon the structure fronts.

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

8.2.4 The numbers posted shall be those assigned to each structure as filed in the office of Select Board. They shall advise the owners of the property of the assigned or reassigned number in writing at the property's tax address.

8.2.5 It shall be the responsibility of each property owner in the town to obtain, maintain, and display the assigned street number within 90 days of adoption of this bylaw at the Town Meeting or 90 days after notification of the assigned number by the Select Board, whichever comes last. Failure to comply with this bylaw shall subject the property owner to a fine of not more than $25.00 for each offense daily after warning by the Police Department. This bylaw shall be enforced by the Police Department. (May 9, 1992)

8.3 Non-Criminal Disposition

Any bylaw of the Town of Heath, or rule or regulation of its officers, boards or departments, the violation of which is subject to a specific penalty, may in the discretion of the Town official who is the appropriate enforcing person, be enforced in the method provided in M.G.L. Ch. 40, § 21D. Prior to the issuance of a non-criminal fine, a warning shall be issued. Subsequent to the issuance of warning, the non-criminal fine for each such violation, if not otherwise specified, shall be $100.00.

"Enforcing person" as used in this bylaw, shall mean any Town police officer of the Town of Heath with respect to any offense; and the Building Inspector and his designees, the members of the Conservation Commission and its designees, the members of the Board of Health and its designees, the Sealer of Weights and Measures and his designees, and such other officials as the Select Board may from time to time designate, 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. (May 11, 2002)

8.4 Domestic Violence-Free Zone

The Town declares itself to be a Domestic Violence-Free Zone. Everyone who lives or works in Heath is encouraged to work to stop domestic violence in our community. All departments of town government, including the Library, Police Department, Fire Department and Public School, are encouraged to participate

in appropriate programs to prevent domestic violence. Leaders in the private sector are encouraged to join in these efforts to make Heath free of domestic violence. (June 28, 2003)

8.5 Unregistered Motor Vehicles

8.5.1 Definition: For the purposes of this bylaw only, an unregistered motor vehicle is defined as an automobile that was used to transport people and miscellaneous cargo over the public roads; was required to be registered by the Massachusetts Registry of Motor Vehicles and is no longer being used or registered for a period of two or more years. The following shall be specifically excluded from this definition:
(1) any vehicle used for farm work on a farm, including but not limited to sap collection, vegetable and other farm product collection, snowplowing, transport of animals or feed, and vehicles with Farm plates;
(2) construction equipment including but not limited to bulldozers, loaders, and backhoes;
(3) motorcycles, snowmobiles, motor boats, all-terrain vehicles.

8.5.2 The keeping of more than two (2) unregistered vehicles except by a person licensed under M.G.L. Ch. 140, § 59, on any premises shall not be permitted.

8.5.3 A special permit to keep more than two (2) unregistered vehicles, on any premises, may be granted by the ~~Board of Health~~ Select Board. All such permits granted shall not run with the land or be granted in perpetuity. (amended November 5, 2019)

8.5.4 Enforcement:

(1) This bylaw may be enforced by any Town police officers or agents ~~of the Town's Board of Health~~.

(2) Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process as provided in M.G.L. Ch. 40, S. 21D and the Town's non-criminal disposition bylaw. If non-criminal disposition is elected, then any person who violates any provision of this bylaw shall be subject to a penalty in the amount of ten dollars ($10.00) per day for each day of violation, commencing thirty (30) days following date of receipt of written notice from the ~~Board of Health~~ Select Board or its designee. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. (amended November 5, 2019)

(3) Whoever violates a provision of this bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. (May 8, 2004; amended May 7, 2005)

Section 9: Animal Welfare (amended August 1, 2020**)**

9.1 Dogs

9.1.1 Dog Licensing

A. In accordance with MGL c. 140 § 137, the owner or keeper of a dog over the age of (6) six months shall annually obtain a license for the dog from the licensing authority, who shall issue dog licenses and tags.

B. Annual dog licenses must be obtained by March 31st for a licensing period of April 1 through March 31 of the following calendar year. The open licensing period shall be from February 1st through March 31st of each year.

C. In accordance with MGL c. 140 § 138, any person who during any licensing period becomes the owner or keeper of a dog which is duly licensed in the town or city where is to be kept shall forthwith give notice, in writing, to the Town Clerk that they have become such owner or keeper. The Town Clerk shall change the record of such license to show the name and address of the new owner or keeper.

D. In accordance with MGL c. 140 § 138, any person bringing or causing to be brought from another state or country any dog licensed under the laws thereof which is 6 months old or over or will be 6 months old before the expiration of (30) thirty days shall, on or before the expiration of thirty days following the arrival of such dog within the commonwealth license the dog with the Town Clerk.

E. No license fee shall be charged for a license issued under MGL c. 140 § 139, for a service dog as defined by the Americans with Disabilities Act and MGL c. 272 §98a.
    a. Application shall be made for a dog license as provided in this bylaw, and license tags issued must be worn by any such service dog.

F. No License fee or portion thereof shall be refunded because of subsequent death, loss, spaying, neutering, removal from town or other disposal of the dog for which the license has been issued, nor shall any fee for a license issued to a new resident be prorated.

G. Any person (70) seventy years of age or older, upon proof of age, shall be exempt from the annual fee for one dog, per household, per licensing year.
    a. The owner of a kennel license, age (70) seventy years of age or older, shall be excluded from this exemption.

H. Any residence attempting to license (4) four or more dogs shall be required to secure a kennel license as defined in Kennel Licensing.

I. All license fees collected shall deposited as defined in MGL c140 § 147.

9.1.2 Kennel Licensing

A. Annual kennel licenses must be obtained by March 31st for a licensing period of April 1 through March 31 of the following calendar year. The open licensing period shall be from February 1st through March 31st of each year.

B. A Kennel license shall be in lieu of individually licensing the dogs kept on the subject premises.

C. The fee for Kennel licensure shall be set by the Select Board and may be adjusted at their discretion during an open meeting. Any adjustments shall not become effective until the start of the next licensing period.

D. Issuance: Upon receipt of the completed application packet and appropriate fee, the Town Clerk shall issue the kennel license valid through March 31st of the following calendar year.

E. Renewals: A kennel license shall be renewed by March 31st annually, upon completion of an annual inspection and payment of the appropriate fee, provided that the license holder has not been in violation of this by-law or Massachusetts General laws pertaining to dogs in the past (12) twelve months as determined by the Animal Control Officer or Hearing Authority.

F. Inspections: In accordance with MGL c. 140 §137C, an Animal Control Officer or Police Officer may inspection, or cause to be inspected any licensed kennel. If, in the judgment of the Animal Control Officer or Police Officer, the kennel is not being maintained in a sanitary or humane manner, or if records are not being properly kept as required by law, the inspecting authority shall, by order, revoke or suspend the license for the kennel.

G. In accordance with MGL c. 140 § 137A, an owner or keeper of less than 5 dogs, 3 months old or older, who does not maintain a kennel may elect to secure a kennel license in lieu of licensing the dogs under section 137 and shall be subject to this section, sections 137B and 137C and so much of section 141 as it relates to violations of this section to the same extent as though the owner or keeper were maintaining a kennel.

H. All license fees collected shall deposited as defined in MGL c140 § 147.

9.1.3 Dogs Running-At-Large

A. No owner or keeper of any dog within the town limits shall allow any dog, whether licensed or unlicensed, to wander on private property without permission of the owner thereof, or on any public property within the Town, including but not limited to public ways, school grounds, recreation areas and cemeteries, unless the dog is properly restrained with a chain or leash.
    a. Any dog within the area of Town zoned as Heath Center are required to be tied, fenced in or on a leash at all times.
    b. Exception: This section shall in no way preclude the use of certain specially trained dogs as set forth in MGL c. 140 §139.

B. The owner or keeper of any dog which is not on the premises of the owner or keeper or upon the premises of another with the permission of said person shall restrain said dog with a chain or leash of sufficient material and strength as necessary to restrain the dog and shall be held by a person capable of controlling the movements of the dog. The chain or leash shall be a length which prohibits the dog from being a nuisance to persons nearby or causing damage to public or personal property.

C. Any dog being used for lawful hunting, training, sporting, working purposes or accompanied by its owner or keeper, who must accept full responsibility for the dog's behavior, shall not be considered running unrestrained.

D. Any dog found to be in violation of this bylaw, and not under the immediate control of the owner or keeper, may be picked up by any law enforcement officer and either returned to the owner or keeper or deposited in a dog pound or similar facility. The owner or keeper shall be responsible for paying all costs of maintaining and keeping the animal at the dog pound or similar facility. Except as otherwise permitted by this bylaw, unrestrained or unlicensed dogs may be sought out, caught and confined by the Animal Control Officer or any police officer of the Town and impounded pursuant to MGL c. 140, §§ 151A and 167.
    a. Any dog that is deposited in a dog pound or similar facility shall be assessed a **$15** (fifteen dollars) pick up fee, that shall be paid prior to release of the dog.

E. This by-law shall remain in force year-round.

F. Violations of this section are subject to the fine schedule as set forth in MGL c. 140 § 173A.

9.1.4 Removal of Waste

A. No person owning or keeping a dog shall suffer, permit, or allow such a dog to leave feces in any public or private property of someone other than that of the dog's owner or keeper within the Town of Heath, without the approval of said property owner. Any person having custody and control of a dog in any such area shall carry with him or her proper equipment for the removal of feces. For purposes of this section, the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces. No person shall leave or dispose of said feces in any catch basin, drainage structure, waterway or on any public property or street except in an approved trash receptacle.
    a. This section shall not apply to a dog licensed under MGL c.140 § 139 and/or accompanying a person whom is handicapped as defined in MGL c. 272 § 98A. If by reason of their handicap they are physically unable to comply with the requirements of this section.

9.1.5 Complaint of Nuisance and Dangerous Dogs

A. Any person may make a written complaint to the Animal Control Officer that any dog owned or kept within the Town is a nuisance dog or a dangerous dog, as those terms are defined in MGL c. 140, § 136A.

B. The provisions of MGL c. 140, §§ 161 and 161A shall apply to whoever suffers the loss of livestock or fowl in a manner described in said § 161.

C. The Animal Control Officer shall investigate or cause to be investigated such complaint, which may include an examination under oath of the complainant at a public hearing in Town to determine whether the dog is a nuisance dog or a dangerous dog, and shall submit a written report of his/her findings and recommendations to the Select Board concerning the restraint or disposal of such dog as provided in MGL c. 140, § 157.

D. The Animal Control Officer, after his investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed 14 days to enable the Select Board to issue their order following receipt of the report of the Animal Control Officer. If the Select Board fails to act during the period of the interim order, upon expiration of the interim period, the order shall automatically be vacated.

E. The Select Board, after credible evidence and testimony is presented at the public hearing, shall (A) dismiss the complaint; (B) deem the dog a nuisance dog and order that the owner or keeper of the dog take remedial action to ameliorate the cause of the nuisance behavior; or (C) deem the dog a dangerous dog and make such order concerning the restraint, muzzling, or euthanization of such dog, or such other action as may be deemed necessary; provided, however, that the Select Board shall not order the banishment and tethering.

F. Violations of such orders shall be subject to the enforcement provisions of MGL c. 140, §§ 157 and 157A

9.1.6 Impoundment and Kenneling

A. Impoundment:
    a. The Animal Control Officer or Police Officer shall immediately notify the owner or keeper of any animal impounded by him/her under the provisions of this bylaw, if such owner is known by him/her.

    b. If the animal is not licensed or the owner or keeper is not known by the Animal Control Officer or Police Officer, no notice shall be necessary.

    c. The animal shall be secured in the town kennel or other such approved holding facility.

B. Kenneling:
    a. The Kenneling period shall start at the time of impoundment and shall accrue until the owner presents the required documentation, signs a release form and removes the animal from the facility.
        i. Required Documentation, shall be considered: Proof of Ownership, Valid Rabies Certificate, Valid Town License.

    b. The Town shall contract with the Franklin County Regional Dog Shelter to provide care and kenneling services to dogs impounded by the Animal Control Officer, Police Officer, or turned in by a citizen.
        i. All associated fees and costs related to the kenneling of a dog shall be set and collected by the Franklin County Regional Dog Shelter.

c. In the event that the Kennel Facility is not adequate for the animals, is overpopulated, or is not adequate for the conditions, animals may be boarded at an approved boarding facility.
    i. If an animal is required to be boarded at another facility, payment to the facility shall be made by the Town upon receipt of bill or invoice. The Town may then seek restitution for the costs from the owner of the animal.

C. Disposition of Animals:
    a. Animal Surrenders shall be done at the discretion of the Animal Control Officer.
    b. Unclaimed Animals: In accordance with MGL c. 140 § 151A, any dog unclaimed after (7) seven days from pickup/confinement shall become property of the town and shall be handled at the discretion of the animal control officer.
        i. In the case of dogs: Dogs shall become property of the Regional Dog Shelter.
        ii. This bylaw shall be extended to cover all animals taken into custody by the Animal Control Officer, with the exception of livestock which shall be handled on a case-by-case basis.

9.1.7 Fee Schedule

A. The annual fee for individual and kennel licenses shall be as follows:

a. Unspayed females or males not neutered $10.00
b. Dogs neutered or spayed $5.00
c. Kennels
5 to 10 dogs . . . . . .
. $25.00 10 or more dogs . . . . . .
. . . . . $50.00
d. Late Fee $25.00

9.2 Rabies Control

A. All dogs, cats and ferrets owned by a resident of the town shall be properly vaccinated against rabies in accordance with MGL c. 140 § 145B.

B. The town shall annually nominate a minimum of (1) Animal Inspector as defined in MGL c. 129 § 15.

C. All bites by dogs, cats or other domestic animals or wild or exotic animals shall be reported to the Animal Inspector and the Animal Control Officer as soon as possible by the person bitten or by the owner or keeper of the animal, or both.

9.3 Cats

A. Stray Cats:
Any rescue group, humane society or other person or organization picking up stray cats shall notify the Animal Control Officer with all relevant information of each cat and the location found.

B. Feral Cats:
Any person or organization that traps and releases feral cats shall report such activity to the Animal Control Officer including information of description and numbers of cats trapped and name and contact information of the caretaker. The caretaker is expected to take full responsibility for the duration of the cat's life. All feral cats shall be ear tipped. All feral cats shall be spayed or neutered.

9.4 Livestock

A. Any owner or person having care of any sheep, swine, horses, oxen, cows, or other grazing animals or fowls, shall construct and maintain a suitable barrier, that a reasonable person would find sufficient, to prevent said animals or fowl from becoming a nuisance by way of trespass upon public ways; public lands; and the lands of another person.

B. No owner or person having care of any sheep, swine, horses, oxen, cows, or other grazing animals or fowls, shall permit or suffer any such animal or animals to go at large unattended upon any public way or lands in the town.

C. No owner or person having care of any sheep, swine, horses, oxen, cows, or other grazing animals or fowls, shall permit or suffer any such animal or animals to trespass upon the premises of another person without the permission of said person.

D. The owner or person having care of said animals shall immediately cause said animals to be restrained following notification that said animals are at large upon a public way or lands or upon the property of another person without permission.

   a. For the purpose of this bylaw section, the term notification shall include: In writing and duly posted in a conspicuous location at the last known residence of the owner or person having care of the animals; In person; By phone conversation with the owner or person having care of the animals; by phone with a voicemail left at the last known number for the owner or person having care of the animals; By other means not defined here that a reasonable person would find acceptable.

E. If said animals remain at-large twelve (12) hours after notification, the owner or person having care of said animal shall be subject to a violation punishable by a fine.

F. Each twelve (12) hour period that the animals remain at-large shall constitute another offense. An offense shall be limited to a period of twelve (12) months.

G. In the event of multiple occurrences within a period of time, in which any sheep, swine, horses, oxen, cows, or other grazing animals or fowls trespass upon any public way or lands in the town; or the premises of another person without permission. The owner or person having care of said animals, shall be deemed in violation of paragraph A of this section. Such violation shall result in notification of and referral to the Town Hearing Authority for remediation.

H. If the owner or person having care of the animals, is making efforts that a reasonable person would find acceptable to restrain said animals, and this is not a subsequent offense, the enforcing agent based on their assessment of the situation may forgo issuing a monetary fine, however, the occurrence shall still count as a first offense.

I. Nothing in this section shall preclude prosecution under section 118 of chapter 266.

9.5 Pets in Municipal Buildings

9.5.1 No pets are allowed to enter any Municipal Buildings unless upon written approval by the Select Board. Service animals* shall be allowed as provided by law.

9.5.2 *According to the Americans With Disabilities Act (ADA), Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or

performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

9.5.3 Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

9.6 Humane Treatment

A. Any person owning, possessing or controlling a domesticated animal shall provide his or her animal with sufficient potable water and wholesome food, proper shelter and protection from the weather, including extremes of heat and cold, veterinary care sufficient to prevent suffering and the spread of disease and shall provide humane care and treatment for the animal.

B. Any person owning, possessing or controlling a dog in the town shall not allow or permit said dog to be harbored, confined, chained or tethered in violation of MGL c. 140 § 174E.
    a. Violations of this section are subject to the fine schedule as set forth in MGL c. 140 § 174E.

C. In accordance with MGL c. 140, § 174F, it shall be a violation of this bylaw to confine an animal in a motor vehicle in a manner that could reasonably be expected to threaten the health of the animal due to exposure to extreme heat or cold.
    a. Violations of this section are subject to the fine schedule as set forth in MGL c. 140 § 174F.

D. No owner or keeper shall abandon any animal. For the purpose of this section, "abandonment" shall be defined as the willful desertion of an animal, which shall include but not be limited to the failure to claim an impounded animal upon receipt of notice that said animal was impounded.

9.7 Fees; Enforcement, Violations and Penalties

A. In addition to police officers, who shall in all cases be considered enforcement personnel for the purposes of non-criminal enforcement, a duly appointed Animal Control Officer shall be the enforcement officer with respect to the provision set forth in this bylaw.

B. A violation of any provision of this article may be dealt with as a non-criminal offense in accordance with the provision of General law, Chapter 40, Section 21D, and shall be subject to the specific fine or penalty listed in each provision.

C. **Violation of Dog Control Laws:**
Shall utilize the following schedule of fines as defined in MGL c.140 §173A .
    a. First Offense: $50 (fifty dollars)
    b. Second Offense: $100 (one hundred dollars)
    c. Third Offense: $300 (three hundred dollars)
    d. Fourth/Subsequent Offense: $500 (five hundred dollars)
        i. The town may require a dog to be spayed/neutered if applicable.

D. **Chaining/Tethering; Housing:**
Shall utilize the following schedule of fines as defined in MGL c.140 §174E.
    a. First Offense: $50 (fifty dollars)
    b. Second Offense: $200 (two hundred dollars)
    c. Third/Subsequent Offense: $500 (five hundred dollars)

E. **Confinement in a Motor Vehicle:**

Shall utilize the following schedule of fines as defined in MGL c.140 § 174F.

a. First Offense: $150 (one hundred fifty dollars)
b. Second Offense: $300 (three hundred fifty dollars)
c. Third/Subsequent Offense: $500 (five hundred dollars)

F. **Livestock – Failure to recover animals at large:**
Violations of the Livestock provision will utilize the following schedule of fines.

a. First Offense: $20 (Twenty dollars)
b. Second Offense: $40 (Forty dollars)
c. Third/Subsequent Offense: $50 (fifty dollars)

G. **Other violations:**
If no specific fine is listed for a specific provision, the following fine schedule shall apply: a. First Offense: Verbal Warning

b. Second Offense: $25 (twenty-five dollars)
c. Third Offense: $50 (fifty dollars)
d. Fourth Offense/Subsequent: $100 (one hundred dollars)

H. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated may constitute a separate offense.

I. Unless specified within a specific provision, a separate offense is not limited to an offense within a calendar year from the first offense.

J. Except where otherwise required by law, all fines collected pursuant to the enforcement of this bylaw shall be deposited into the Animal Control/Dog Fund revolving account.

9.8 Administration

A. Severability: If any provision of this By-Law should be found invalid, the remainder of this By-Law shall remain in force.

B. Definitions for this by-law shall be adopted and defined by MGL c. 140 §136A.

Section 10: Agricultural Rights and Provisions

10.1 Right to Farm

10.1.1 Legislative Purpose and Intent

The purpose and intent of this bylaw is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution and all state statutes and regulations thereunder including but not limited to: M.G.L. Ch. 40A, § 3, ¶ 1; M.G.L. Ch. 90, § 9; M.G.L. Ch. 111, § 125A and M.G.L. Ch. 128, § 1A. We, the citizens of Heath, restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-Law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Heath by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town.

10.1.2 Definitions

The word “farm” shall include any parcel or contiguous parcels of land or water bodies used for the purpose of agriculture or related activities thereto.

The words “farming” or “agriculture” or their derivatives shall include, but not be limited to the following:

* farming in all its branches and the cultivation and tillage of the soil;

* dairying;

* production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;

* growing and harvesting of forest products and any other forestry or lumbering operations;

* keeping of horses as a commercial enterprise; and

* keeping and raising of domestic livestock, including horses, poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), bees, fur-bearing animals and other domesticated animals for food and other agricultural purposes.

“Farming” shall encompass activities including but not limited to, the following:

* operation and transportation of slow-moving farm equipment over roads within the town;

* control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;

* application of manure, fertilizers and pesticides;

* conducting agriculture-related educational and farm-based recreational activities including agri-tourism provided that the activities are related to marketing the agricultural output or services of the farm;

* processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;

* maintenance, repair, or storage of seasonal equipment or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management or sale of the agricultural products; and

* on-farm relocation of earth and the clearing of ground for farming operations.

10.1.3 Right to Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Heath. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this bylaw are intended to app1y to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices Moreover, nothing in this Right To Farm bylaw shall be deemed as acquiring any interest in land or as imposing any land use regulation, which is properly the subject of state statute regulation, or local zoning law.

10.1.4 Disclosure Notification

Within 30 days after this bylaw becomes effective the Select Board shall prominently post in the Town Hall and make available for distribution 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, but are not limited to, activities that cause noise, dust and odors.”

10.1.5 Resolution of Disputes

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

which shall review and facilitate the resolution of the grievance involving all concerned parties, and report its recommendations to the referring Town authority within an agreed-upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance involving all concerned parties, and report its recommendations to the Board of Health within an agreed upon time frame.

10.1.6 Severability Clause

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 Heath hereby declares the provisions of this bylaw to be severable.

Section 11: Rules for the Cemeteries of the Town

(May 10, 1997, amended: May 8, 2010, May 10, 2014, May 9, 2015)

11.1 Purpose and Scope

For the protection of lot owners and the Town of Heath, and to preserve the rural character of our cemeteries, the following rules and regulations have been adopted by the Heath Cemetery Commissioners. These rules and regulations shall apply to all Town of Heath cemeteries and all lot owners and visitors within the cemeteries, and all lots sold shall be subject to said rules and regulations and subject further to such other rules and regulations, amendments and/or alterations adopted pursuant to state and local laws from time to time. Reference to these rules and regulations in the deed or certificate of ownership to a lot shall have the same force and effect as if set forth in full therein.

11.2 Definitions

11.2.1 Cemeteries: Burial parks for earth interment, which include the South Cemetery, Center Cemetery and that portion of the North Cemetery that is owned by the Town of Heath.

11.2.2 Commission: That Board appointed by the Select Board of the Town of Heath called the Cemetery Commission in accordance with M.G.L. Ch. 114, § 27 and Ch. 41, § 21 for the purpose of issuance of certificates of ownership for burial lots, and to maintain and manage the Town Cemeteries.

11.2.3 Certificate of Ownership: The deed or certificate of ownership of a lot given by the Commission to the original purchaser.

11.2.4 Burial Agent: The Town Board of Health or its appointed agent, such as the Town Clerk, who is responsible for receiving death certificates and issuing interment certificates.

11.2.5 Sexton: The caretaker of the cemetery responsible for upkeep, grave openings and closings. The Sexton functions as the custodian of the cemetery plot maps, records of individual grave*s* ~~p~~lots*,* interment arrangements. The Sexton also transmits the notification of interment to the State Board of Health.

11.2.6 Grave: A space of sufficient size to accommodate one adult interment, approximately five (5) by twelve (12) feet, width and length.

11.2.7 Interment: The permanent disposition of the remains of a deceased person by cremation and interment, entombment or burial.

11.2.8 Lot: A numbered division as shown on the plan of a cemetery which consists of two (2) or more graves; approximately ten (10) feet by twelve (12) feet, width and length.

11.2.9 Lot Marker: Any means used by the Cemetery Commission to locate corners of the lot or grave.

11.2.10 Marker: A memorial flush with the ground.

11.2.11 Memorial: A monument, marker, tablet, headstone or tombstone installed or placed on a lot.

11.3 General Rules

11.3.1 All fees or charges for services are payable at the Town Treasurer/Clerk's office.

11.3.2 Persons within the Cemeteries shall use only the avenues, roads, and walkways, and no one is permitted to walk upon or across lots or lawns unless it is necessary to gain access to one's own lot or to visit a grave.

The Commission and the Town of Heath expressly disclaim liability for any injuries sustained by anyone violating this rule.

11.3.3 Persons visiting the Cemeteries or attending funerals are prohibited from picking flowers, wild or cultivated, breaking or injuring any tree, shrub or plant, or from writing upon, defacing or injuring any memorials, fences or other structures within the Cemeteries' grounds. Violation of this rule is also a violation of state laws (M.G.L, Ch. 272, §§ 73, 74, 75) under which violators may be subject to criminal prosecution resulting in fines or imprisonment.

11.3.4 The following are prohibited:

(a) The driving of motor vehicles through the gates or within the Cemeteries at excessive speeds.

(b) Driving any motor vehicle or riding any animal across or upon any grave, lot or lawn or parking or leaving the same thereon.

(c) Parking or leaving any motor vehicle on any road or driveway within the Cemeteries at such location or in such position as to prevent any other vehicle from passing. Vehicles found in violation of this rule may be removed by any person authorized to enforce these rules and regulations, including the Commission and its agents and police officers of the Town of Heath.

11.3.5 No bicycles or motorcycles will be admitted to the Cemeteries except such as may be in attendance at funerals or on business.

11.3.6 Disposal of rubbish is prohibited.

11.3.7 In order to maintain the solemnity of the Cemeteries, the following activities are prohibited:

(a) Loud or boisterous talking.

(b) Loitering on the grounds, or in any of the buildings.

(c) Bringing food into the Cemetery of consuming it on the grounds.

(d) Peddling or soliciting.

(e) Placing of signs, notices or advertisements of any kind.

(f) Bringing dogs, other than guide dogs for the blind, deaf or hearing impaired, into the Cemeteries.

(g) Bringing firearms into the Cemeteries, except by a military escort accompanying a veteran's funeral or attending memorial services.

11.3.8 Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Commission, therefore, reserves the right to make exceptions, suspensions or modifications to any of these rules and regulations, without notice, when in the judgment of the Commission such action appears necessary to eliminate such hardship. Such temporary exception, suspension or modification shall in no way be construed as affecting the general application of such rules and regulations.

11.3.9 All planting and other work on lots by lot owners or visitors must be performed during the regular hours of the Cemeteries. All work shall be subject to the directions of the Commission and its agents.

11.3.10 The Commission and the Town of Heath reserve the right to add to, amend, alter or repeal these Rules and Regulations pursuant to M.G.L. Ch. 114, § 23. Inclusion of such amendment or alteration in Town Meeting Warrant will serve as sufficient notice of any rule changes.

11.4 Lots and Lot Owners (amended May 11, 2019)

~~11.4.1~~ Residents and/or property owners of Heath are entitled to select and reserve a lot for their burial in a Town cemetery. A person desiring to reserve a lot should contact the Cemetery Commissioner of that cemetery or the Sexton. The Commissioner will issue a deed of ownership upon payment of the marker fee to the Town of Heath. ~~The procedure for the North Cemetery is different because the Town portion of the North Cemetery is full. Lots may be purchased from the North Cemetery Corporation.~~

(1) A fee of ~~seventy-five (75)~~ one hundred fifty (150) dollars ~~for the placement of markers~~ will be assessed at the time of issuance of the deed for residents and/or property owners of the Town of Heath. The ~~$75~~ fee may be waived in the event of hardship at the discretion of the Cemetery Commissioners.

(2) A fee of ~~two hundred and fifty (250)~~ four hundred (400)dollars will be expected from non-residents at the time of issuance of the deed in accordance with Section 11.5.5. ~~This fee is for both the marker and the lot.~~

(3) Donations are gratefully accepted to help maintain cemeteries.

11.4.2 Descriptions of the lots will be in accordance with the Cemetery maps which are kept by the Sexton.

11.4.3 Purchasers of lots shall, at the time of purchase, provide the Commission with the names and addresses of heirs of the lots owners.

11.4.4 Before any stone, marker, or shrubs are placed or planted on a grave or lot, complete payment for grave use must be made to the Town of Heath, unless waived by the Commission.

11.4.5 No lot or grave shall be used for any other purpose than burial of the human dead.

11.4.6 No easement or right of interment shall be granted to any grave owner on any road, drive, alley, or walk within any Cemetery, but such road, drive, alley, or walk may be used as a means of access to the Cemeteries, as long as the Commission designates it for that purpose.

11.4.7 The Commission reserves the right to:

(1) Enlarge, reduce, re-plan or change the boundaries or grading of the Cemeteries, or a section or sections of any Cemetery including the right to modify or change the locations or remove or re-grade roads, drives or walks, or any part thereof.

(2) Use Cemetery property not sold to individual grave owners for cemetery purposes, including interment of the dead, or for anything necessary, incidental or convenient thereto.

11.4.8 The Commission and the Town of Heath reserve to themselves and their agents a perpetual right of ingress and egress over graves and lots for the purpose of passing to and from other graves and lots.

11.4.9 Neither the Commission nor the Town of Heath shall be responsible for any loss nor damage within the Cemeteries from causes beyond their control such as damage caused by the elements, an act of God, thieves, vandals, explosions, unavoidable accidents, riots or by order of any military or civil authority, whether the damage be direct or collateral.

11.4.10 The instrument of conveyance, these rules, and any amendments thereto, constitute the sole agreement between the Commission and the grave owner. The statement of any employee or agent, unless confirmed in writing by the Commission, shall in no way bind the Commission.

11.5 Care of Lots

11.5.1 The general care of the Cemeteries is assigned to the Commission and includes the cutting of the grass at reasonable intervals to maintain the uniformity and the character of the Cemeteries. Individual fertilizing is not permitted.

11.5.2 General care shall in no case include the maintenance, repair or replacement of any memorial, tomb, or mausoleum placed or erected upon lots. Additionally excluded is the reconstruction of any marble or granite work on any section or grave or any portion or portions thereof in the Cemeteries, damaged by the elements, an act of God, thieves, vandals, explosions, unavoidable accidents, riots, or by order of any military or civil authority, whether the damage be direct or collateral.

11.5.3 Funds for this general care shall be provided by the Town appropriations pursuant to M.G.L. Ch. 114, § 16.

11.5.4 Pursuant to M.G.L. Ch. 114, § 25, the Town of Heath may receive gifts or bequests for the maintenance of the Cemeteries. These funds shall be paid to the Town Treasurer, kept separate from other Town funds and accounts and invested in accordance with any stipulations from the grantor, if any. Proceeds from the lot sales or rights of burial shall be paid into the Town treasury and appropriated to reimburse the Town for cemetery maintenance expenditures.

11.5.5 Pursuant to M.G.L. Ch. 114, § 19, the Town of Heath may receive, hold and apply funds, money, or securities deposited with the Town Treasurer for the preservation, care and improvement of the Cemeteries or the lots of the Cemeteries. The Town Treasurer shall invest these monies to insure a maximum income.

11.6 Correction of Errors

The Commission reserves, and shall have the right to correct any errors that may be made by it in making interments, disinterments, or removals, or in the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location, as far as possible, or as may be selected by the Commission, or, in the sole discretion of the Commission, by refunding the amount of money paid on account of said purchase. In the event such an error shall cause the interment of the remains of any such

person in such property, the Commission reserves, and shall have the right to remove or transfer such remains so interred to such other property, consistent with law, or equal value and similar location as may be substituted and conveyed in lieu thereof.

11.7 Descent of Titles

The laws of the Commonwealth of Massachusetts govern the descent of title to cemetery lots as well as other matters pertaining to assignments, conveyances, devises, trust deeds and inalienability. The Commission will assist any lot owner who desires more information pertaining to his lot.

11.8 Interments

11.8.1 The Cemeteries will be open for interment by the Sexton or at the discretion of the Commission and the authorized funeral director.

11.8.2 Once a casket containing a body is within the confines of the Cemeteries, no funeral director or his embalmer, assistant, employee or agent shall be permitted to open the casket or to touch the body without the consent of the legal representative of the deceased or an order issued by a court of competent jurisdiction.

11.8.3 Lot owners shall not allow unauthorized burials in their lots for remuneration of any kind.

11.8.4 One traditional burial and up to three cremain burials or up to six cremain burials with no traditional burial are the maximum allowed in a single grave. No interment of two or more traditional burials shall be made in one grave, except in the case of parent and child or two infants buried in one casket.

11.8.5 When an interment is to be made in a lot, the location of such interment shall be designated by the lot owner. Should the lot owner fail or neglect to make such designation, the Commission reserves the right to make the interment in a location designated by the Commission or the Sexton.

11.8.6 The Commission and the Sexton are the only persons who will be permitted to open graves, with the following exceptions:

(1) When the Commission is directed to make a disinterment by a judicial order and a certified copy of such order has been filed with the Commission, or the Sexton.

(2) When an authorized Coroner/Medical Examiner directs the disinterment for the purpose of holding an inquest and has filed with the Commission or burial Agent a signed authorization to release the body to him or his lawful agents. In such a case the disinterment must be made by the Coroner/Medical Examiner or his lawful agents. Commission employees will not be permitted to assist.

11.8.7 Arrangements for the payment of indebtedness due the Commission shall be made before interment is made.

11.8.8 The Commission reserves the right to insist upon at least a thirty-six (36) hour notice to it or the Sexton prior to any interment and at least one (1) week's notice prior to any disinterment or removal.

11.8.9 All interments, disinterments and removals must be made at the time, in the manner, and upon the charges fixed by the Commission.

11.8.10 In addition to being subject to these rules and regulations, all interments, disinterments and removals shall be subject to all applicable state and local laws, ordinances and regulation, including the issuance of any burial or other permits.

11.8.11 The Commission will not be responsible for any order given by telephone or for any mistake from the want of precise and proper instructions as to the particular space, size of grave and location in a grave where interment is desired.

11.8.12 The Commission will not be liable for the interment permit nor for the identity of the person sought to be interred.

11.8.13 Green burials, which are understood to be burial without embalming (the use of preservatives such as formaldehyde or other chemicals) and burial without a vault, will be allowed in Town cemeteries. If no vault is used, a ~~leak-proof~~ shroud or casket that will collapse when grade is filled will be required to maintain a level soil surface and prevent accidental punctures of graves.

1. The legal representative of the deceased, if there is no funeral director, is responsible for providing transport and lowering the body into the grave. (amended May 11, 2019)

11.8.14 The Sexton must be informed of green burial plans when the request of internment is made.

11.8.15 For a green burial, the depth of the grave should be five feet to the bottom.

11.9 Plants and Shrubs

11.9.1 The Commission will maintain, as may be practicable, trees and shrubs to preserve and maintain landscape features, but will not maintain individual planting, urns, or plants.

11.9.2 Neither the Commission nor the Town of Heath shall be responsible for any kind of plantings damaged by the elements, vandals, thieves or other causes beyond their control. The Commission shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from the Cemeteries as soon, as in the judgment of the Commission or the Cemetery representative, they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the standard maintained.

11.9.3 Neither the Commission nor the Town of Heath shall be responsible for floral pieces, baskets or frames in which, or to which, such floral pieces are attached, beyond the acceptance of such floral pieces for cemetery services held in the Cemeteries.

11.9.4 The Commission reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs, plants or herbage of any kind, unless the Commission gives its consent.

11.10 Miscellaneous

The Commission may adopt a schedule of fees for privileges and services provided to lot owners, and may make such orders and take such actions as are necessary to implement these Rules and Regulations.

11.11 Enforcement of Rules

The Commission, its agents and any police officer of the Town of Heath are hereby empowered to enforce all Rules and Regulations and to exclude from the Cemeteries any person violating the same.

Section 12 STRETCH ENERGY CODE (established May 12,2018, effective date July 1, 2018)

12.1 Definitions:
International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

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

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

12.3 Applicability This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

12.4 Stretch Code The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Heath General Bylaws, Chapter 12.

The Stretch Code is enforceable by the building inspector or building commissioner and effective as of July 1, 2018.

END—TOWN OF HEATH GENERAL BYLAWS