

Town of Heath
General Bylaws—Chronological Order 1796-2013
Compiled by Hilma A. Sumner, Town Clerk
June 2013

1. Established the town roads three rods wide. (March 7, 1796)
2. The Selectmen are to meet at least once a month to receive bills and draft orders for the same and the Treasurer does not cash an order that does not have two or more Selectmen's names on it. (March 19, 1898)
3. Unless duly licensed by state authority, no person without a written license from the Selectmen 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)
4. 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)
5. It shall be the duty of any constable or other officer to order any person violating the provisions of General Bylaw No. 4 to move on and if said order is not obeyed, to arrest the person so offending. (Feb. 4, 1946)
6. Whoever shall offend against or fail to comply with any of the provisions of General Bylaws Nos. 3, 4, or 5 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)
7. Beginning with the annual election of town officers in 1964 the Town Clerk shall be elected for a term of three years. (Feb. 4, 1963)
8. A Planning Board of five members was established under the provision of MGL Ch. 41, S. 81A, with all the powers and duties thereof, to be elected by the Town. (Feb. 3, 1969)
9. The Community Hall is to be used free of charge to Town Organizations with the approval of the Hall Committee. (March 3, 1975)
10. A Historical Commission of the Town of Heath is established under the provisions of MGL Ch. 40, S. 8d for the purpose and with the rights and duties provided by law, to be composed of three to seven members appointed by the Board of Selectmen for terms of three years, with the exception of the initial appointments which shall be, one member for one year, one member for two years, and one member for three years. (Nov. 3, 1975).
11. An elected three-member Finance Committee was established with three-year terms, one of which will expire each year. Selectmen cannot be elected for the Finance Committee. (May 1, 1978)

A five-member Finance Committee was established and shall be elected for terms of three years by and from the registered voters of the Town. The committee shall consider all municipal questions for the purpose of making reports or recommendations to the town, and shall assist in the preparation of Annual Budgets and other Financial Reports in accordance with MGL. Ch. 41, S. 2 and Ch. 39, S. 16. (Oct. 23, 1990)

12. 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)
13. The Collector of Taxes shall charge and retain for personal services the fee of \$15.00 or such fee as may be prescribed by the Massachusetts General Laws, for the issuance of a certificate of all taxes and other assessments and charges which at the time constitute liens on a parcel of Real Estate, specified in written application by any person, and are payable on account of such Real Estate. (May 4, 1981)
14. The Town adopted as its official emblem the design which appears on the cover of the 1980 Town Report and on some of the Town vehicles. (May 3, 1982)
15. A Conservation Commission of the Town of Heath was established according to the provisions of MGL Ch. 40, S. 8C for the purposes and with the rights and duties provided by law, to be composed of five members appointed by the Selectmen for terms of three years each. (Jan. 6, 1986)
16. The date of the Annual Town Meeting is to be the first Saturday following the first Monday in May and the Annual Town Elections are to be the Friday before the Annual Town Meeting, effective in May 1987. (May 5, 1986)
17. Trash Disposal (Recycling): 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)
18. The regulations for permitting curbside cuts/new driveway entrances in accordance with the PROVISIONS FOR NEW DRIVEWAY ENTRANCES developed by the Board of Selectmen and the Heath Highway Superintendent and approved by the Board of Selectmen on April 19, 1988 was accepted. (May 7, 1988)
19. A Board of Health is established with its members being appointed by the Board of Selectmen. (May 11, 1990, by ballot)
20. Street numbers shall be attached to each dwelling, business, industry, and other buildings which are not accessory in nature in the Town of Heath.
 - A. 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.
 - B. 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.

- C. The numbers posted shall be those assigned to each structure as filed in the office of the Board of Selectmen. They shall advise the owners of the property of the assigned or reassigned number in writing at the property's tax address.
 - D. 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 ninety days after notification of the assigned number by the Board of Selectmen, 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 offence daily after warning by the Police Department. This bylaw shall be enforced by the Police Department. (May 9, 1992)
21. 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. A quorum for any Special Town Meeting Session 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)
22. A Cemetery Commission with its members being appointed by the Board of Selectmen is approved. (May 7, 1993, by ballot)
23. All Town Ways in the Town of Heath are discontinued except those Public Ways or Statutory Private Ways on the following list:
- 1. A.L. Stetson Road: from West Branch Road to the end of the road at the Coe property, 0.55mi.
 - 2. Avery Brook Road: from Main Street and Taylor Brook Road to the Charlemont town line, 2.35 mi.
 - 3. Bassett Road: from South Road to the Charlemont town line, 1.1 mi.
 - 4. Bellor Road: from Sadoga Road to the end of the road at the Morgan property, 0.28 mi.
 - 5. Branch Hill Road: from Colrain Stage Road and Wolf Road to Route 8A, 1.5 mi.
 - 6. Bray Road: from Main Street to Colrain Stage Road, 0.65 mi.
 - 7. Brunelle Road: from its southern intersection with Route 8A North to its northern intersection with Route 8A North, 1.35 mi.
 - 8. Burnt Hill Road: from the Burnt Hill Schoolhouse to the stone wall at the most southeasterly edge of the Bradley Property, 0.7 mi.
 - 9. Burrington Road: from South Road to the intersection with Avery Brook Road at the Charlemont town line, 1.9 mi.
 - 10. Colrain Stage Road: from Branch Hill Road and Wolf Road to the Colrain town line, 2.25 mi.
 - 11. Dell Road: from Main Street and Long Hill Road to Route 8A South, 1.1 mi.
 - 12. Flagg Hill Road: from Taylor Brook Road and Swamp Road to the Charlemont town line, 1.9 mi.
 - 13. Groll Road: from Number Nine Road to the Rowe town line, 0.25 mi.
 - 14. Hosmer Road East: from Colrain Stage Road and Swamp Road to Hosmer Road West, 1.9 mi.
 - 15. Hosmer Road West: from Colrain Stage Road east of Heath Fair Grounds to Hosmer Road East, 1.36 mi.
 - 16. Jacobs Road: from its southwestern intersection with Route 8A North to its northeastern intersection with Route 8A North, 0.7 mi.
 - 17. Judd Road: from Route 8A South to the Charlemont town line, 0.6 mi.
 - 18. Knott Road: from Rowe Road to the end of the road at the Leuchtman property, 0.45 mi.
 - 19. Ledges Road: from Main Street to Wolf Road, 0.42 mi.

20. Long Hill Road: from Main Street and Dell Road to Route 8A South, 1.3 mi.
 21. Main Street: from Dell Road and Long Hill Road to Avery Brook Road and Taylor Road, 0.75 mi.
 22. Maple Lane: from Brunelle Road to Route 8A North, 0.1 mi.
 23. Number Nine Road: from Route 8A North to the Vermont state line, 2.9 mi.
 24. Route 8A North: from Branch Hill Road to the Vermont state line, 3.9 mi.
 25. Route 8A South: from Branch Hill Road to the Charlemont town line 2.9 mi.
 26. Rowe Road: from Route 8A South to the Charlemont town line, 1.2 mi.
 27. Royer Road: from Dell Road to South Road, 1.12 mi.
 28. Sadoga Road: from Route 8A North to the Vermont state line, 1.95 mi.
 29. Saunders Road: from Dell Road to the Hudson/Stein property, 0.1 mi.
 30. Schoolhouse Road: from Burrington Road to Bassett Road and South Road 0.4 mi.
 31. South Road: from Main Street to the Charlemont town line, 2.5 mi.
 32. State Farm Road: from Route 8A North to the Colrain town line, 1.6 mi.
 33. Stone Hill Road: from Number Nine Road to the Rowe town line, 0.2 mi.
 34. Sumner Stetson Road: from Route 8A North to the Vermont state line, 2.36 mi.
 35. Swamp Road: from Taylor Brook Road and Flagg Hill Road to Colrain Stage Road and Hosmer Road, 0.5 mi.
 36. Taylor Brook Road: from Main Street and Avery Brook Road to the Colrain town line, 2.2 mi.
 37. Town Farm Road: from South Road to the end of the road at the Johnson property, 0.45 mi.
 38. Underwood Hill Road: from Sadoga Road to Sumner Stetson Road, 0.83 mi.
 39. Vincent Road: from Judd Road to Wheeler Road, 0.25 mi. (Statutory Private Way)
 40. West Branch Road: from Route 8A North to the Colrain town line, 1.9 mi.
 41. Wolf Road: from Ledges Road to Colrain Stage Road, 0.1 mi.
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24. "Proposed Rules for the Cemeteries of the Town" which is on file in substantive form in the Town Clerk's office was accepted and approved. (May 10, 1997, amended May 8, 2010)
 25. The Town voted to endorse and be guided by the Vision, Goals and Objectives, and Action Plan developed by The Visioning Committee and to recommend that Town Boards and Committees pursue actions consistent with those Goals and Objectives. Further, that as public funding becomes available, the Planning Board will continue to pursue completion of a Master of Town Plan. (May 8, 1999)
 26. The Board of Selectmen is authorized to enter into an agreement to join the Franklin County Solid Waste Management District effective July 1, 2001. (May 5, 2001)
 27. Pursuant to MGL Ch. 59, SS. 59 & 57C the Town accepted quarterly tax billing effective July 1, 2002. (May 5, 2001)
 28. 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)

29. 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 Section 21D of Chapter 40 of the Massachusetts General Laws. 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 Board of Selectmen 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)

30. DOG BYLAWS

DOG BYLAWS

Section 1: Licensing: The owner or keeper of a dog kept within the Town of Heath shall cause the dog to be licensed individually or part of a kennel license, as provided in this Bylaw and Chapter 140 of the Massachusetts General Laws.

1. The owner or keeper of any dog over the age of six (6) months shall obtain a license for the dog from the Town Clerk.
2. Annual dog and kennel licenses must be obtained by March 31st for a licensing period of April 1 through March 31 of the following calendar year. When licensing a dog for the first time, proof of spay or neutering should be presented in order to be eligible for neutered or spayed license fee.
3. There will be a late charge per dog for licensing after March 31st. There will be no exceptions to this requirement.
4. New residents shall have thirty days to license their dog during which period any license duly recorded in another jurisdiction shall remain valid.
5. A license fee shall not be refunded because of a subsequent death, loss, spaying, or removal of such dog from the Town of Heath, nor because of a license fee mistakenly paid.
- ~~6.~~ No fee shall be charged for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

7. The registering, numbering, describing, and licensing of dogs and kennels in the Town of Heath shall be conducted in the office of the Town Clerk during regular hours.
8. Proof of Rabies vaccination is mandatory before license(s) will be issued.
NOTE: A copy of the rabies certificate must be presented at time of licensing.

Section 2: Kennels (amended May 10, 2014)

- a. A person maintaining a kennel, as defined in Massachusetts General Laws, Chapter 140, section 136A, shall obtain a kennel license from the Town Clerk in accordance with section 1, sub-paragraph 2 above.
- b. The owner or keeper of a pack or collection of less than four (4) dogs, three (3) months of age or older may elect to obtain a kennel license in lieu of licensing the dogs individually. The fee for such a license shall be the same as the fee for a 4 to 10 dog kennel license, and the holder of such a license shall comply with all local, state and federal laws applicable to kennels, including but not limited-to compliance with this section and applicable provisions of the Town's zoning bylaws.
- c. A kennel license shall be in lieu of individually licensing the dogs kept on the subject premises.
- d. The holder of a kennel license shall cause each dog kept at the premises to wear a tag inscribed with the number of the kennel license, name of Town and year of issue at all times.
- e. A kennel license shall not be granted until the kennel is approved by the Planning Board and has passed inspection by the Animal Control Officer.
- f. Application for a kennel license shall include the name, breed, age, proof of fixing (if applicable), proof of rabies vaccinations, and photograph of each dog.
- g. The holder of a kennel license must comply with all local, state, and federal laws for conducting the licensed activity, including but not limited-to compliance with applicable provisions of the Town's zoning bylaws.

Section 3: Restraint of Dogs

- a. No person shall cause or permit any dog, whether licensed or unlicensed, to run at large, or permit such dog to wander unrestrained on public or private property other than the premises of the owner or, keeper of the premises of another person with knowledge and permission of such other person. A dog is under restraint within the meaning of this bylaw if it is controlled by a leash or at heel beside a competent person and obedient to the commands of that person, and further in the area of Town zoned as Heath Center dogs must be tied or on a leash.
- b. No dog shall be chained, tethered or otherwise tied to an inanimate object including a tree, post or building for longer than 24 consecutive hours.

c. Unrestrained or unlicensed dogs may be caught and confined by the Animal Control Officer or any police officer of the Town of Heath. A dog so confined may be held for not more than seven days. If the owner or keeper of the dog claims it and pays the sum of \$40 for each day that the dog has been held, the dog shall be returned to its owner or keeper. Any dog not claimed by the owner or keeper within said seven day period may be subject to euthanization or adoption as set forth in Massachusetts General Laws, Chapter 140, sections 151A and 167.

Section 4: Nuisance and Dangerous Dogs

a. No person shall permit a dog owned and/or kept in the Town of Heath to be a Nuisance Dog or Dangerous Dog as those terms are defined in Massachusetts General Laws, Chapter 140, sections 136A and 157.

b. Any person may make a written complaint to the Board of Selectmen that any dog owned or kept within the Town of Heath is a Nuisance Dog or a Dangerous Dog. The Board of Selectmen, as Hearing Authority, shall investigate or cause to be investigated such complaint, including an examination under oath of the complainant at a public hearing in the Town to determine whether the dog is a Nuisance Dog or a Dangerous Dog, and shall make such order concerning the restraint or disposal of such dog as provided in M.G.L. c.140, Section 157.

Section 5: Fee Schedule (amended May 10, 2014)

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

- i. Unspayed females or males not neutered . . . \$10.00
- ii. Dogs neutered or spayed \$ 5.00
- iii. Kennels
 - 4 to 10 dogs \$25.00
 - 11 or more dogs \$50.00
- iv. Late Fee \$25.00

Section 6: Enforcement and Penalties

a. Allowing Dog to Roam at Large

b. In addition to the remedy of impoundment as set forth therein, Section 3 of this Bylaw may be enforced by the Animal Control Officer or any police officer of the Town through any means available in law or equity, including but not limited to criminal indictment in accordance with G.L. c.40, §21, and noncriminal disposition in accordance with G.L. c. 40, §21D, and the Town Bylaws, "Non-Criminal Disposition." When enforced in accordance with G.L. c.40, §21, the maximum penalty shall be \$300.00 and each day a violation exists shall constitute a separate violation.

ii. When enforced through noncriminal disposition, the penalties shall be as follows:

First violation: Verbal Warning

Second violation:	\$ 100.00
Third and subsequent violations within 12-month period of first violation:	\$ 300.00

- i. For purposes of enforcement through non-criminal disposition, any violation of the provisions of this by-law occurring more than 12 months after a first offense shall constitute a new and separate violation.

c. Violation of Order to Restrain Nuisance or Dangerous Dog

i. In addition to the remedies set forth therein, Section 4 of this Bylaw may be enforced by the Animal Control Officer or any police officer of the Town through any means available in law or equity, including but not limited to criminal indictment in accordance with G.L. c.140, §157A as may be amended from time-to-time, and noncriminal disposition in accordance with G.L. c. 40, §21D, and the Town Bylaws, "Non-Criminal Disposition." When enforced in accordance with G.L. c.140, §157A, an owner or keeper of a dog who fails to comply with an order of the selectmen or district court shall be punished, for a first offense, by a fine of not more than \$500 or imprisonment for not more than 60 days in a jail or house of correction, or both, and for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment for not more than 90 days in a jail or house of correction.

ii. When enforced through noncriminal disposition, the penalties shall be as follows:

First violation:	Verbal Warning
Second violation:	\$ 100.00
Third and subsequent violations within 12-month period of first violation:	\$ 300.00

iii. For purposes of enforcement through non-criminal disposition, any violation of the provisions of this by-law occurring more than 12 months after a first offense shall constitute a new and separate violation.

d. For purposes of enforcement through non-criminal disposition, any violation of the provisions of this by-law occurring more than 12 months after a first offense shall constitute a new and separate violation.

e. Other

i. Whoever violates any provision of this by-law or order of the Animal Control Officer for which no penalty is specified, 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 fifty dollars (\$50.00).

ii. Whoever violates any provision of this By-law for which no penalty is specified may be penalized by a noncriminal disposition process as provided in G.L.40, s.21D. If noncriminal disposition is elected, then any person who violates any provision of this By-Law shall be subject to a penalty in the amount of fifty dollars (\$50.00) for each offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

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

Section 7: Severability

If any section or part of this chapter shall be held invalid for any reason, the remainder of this chapter shall continue in full force and effect.

(May 11, 2002; amended Jan. 21, 2003, May 10, 2008, May 11, 2013 [pending])

31. The Town declared 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)

32. LICENSES

- 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 permits 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 standings with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as 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 Board of Selectmen 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 section one of chapter two hundred and sixty-eight in the business or activity conducted in or on said property. This section shall not apply to the following licenses and permits: open burning, section thirteen of chapter forty-eight; bicycles permits, section eleven A of chapter eighty-five; sales of articles of charitable purposes, section thirty-three or chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred forty-nine; clubs, associations, dispensing good or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section one hundred and eighty-one of chapter one hundred and forty. (May 9, 1998, June 28, 2003)

33. UNREGISTERED MOTOR VEHICLES

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:

- (a) any vehicle used for farm work on the 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;
- (b) construction equipment including but not limited to bulldozers, loaders, and backhoes;
- (c) motorcycles, snowmobiles, motor boats, all-terrain vehicles.

Section 1: The keeping of more than two (2) unregistered vehicles except by a person licensed under General Laws, Chapter 140, Section 59, on any premises shall not be permitted.

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

Section 3: Enforcement:

- A. This bylaw may be enforced by any Town police officers or agents of the Town's Board of Health.

- B. 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. Each day or portion thereof shall constitute a separated offense. If more than one, each condition violated shall constitute a separate offense.
- C. 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)

34.

HEATH RIGHT TO FARM BY-LAW

Section 1: Legislative Purpose and Intent

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution and all state statutes and regulations there under including but not limited to Massachusetts General Laws: Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9; Chapter 111, Section 125A and Chapter 128, Section 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.

Section 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.

Section 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 By-law are intended to apply to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm By-law shall be deemed as acquiring any interest in land or as imposing any land use regulation, which is properly the subject of state statute regulation, or local zoning law.

Section 4: Disclosure Notification

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

"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."

Section 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.

Section 6: Severability Clause

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

END-----TOWN OF HEATH GENERAL BYLAWS